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A Plurality of Nations?
Malaysia's Quest for a Viable Polity

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Jürgen H. Wolff

Introduction

Malaysia has long been regarded as a fascinating topic of scientific enquiry. Its population, composed of three main groups of which two – the Chinese and the Indians – belong to the most developed civilizations of Asia, has, by and large, managed to live peacefully together; its economic success, despite qualifications, is remarkable and its "Vision 2020" programme seeks to make the country a fully developed industrialized nation by that date; its political system is widely regarded a model case of constitutional engineering that manages ethnocultural diversity without undue repression. Compared to countries in the Middle East, let alone sub-Saharan Africa, the country can be regarded a model of successful economic, social, and political development.

And yet, questions remain? What is the yardstick for measuring such a system? Is it a failed (or failing) state in sub-Saharan Africa? Or an authoritarian political system in the Middle East? Or the Islamic Republic of Iran? Or generally accepted standards of good governance, of ethnic accommodation, respect for human rights, independent courts and freedom of expression? In the event of a clash, does economic success take precedence over other political or ethic considerations?[1]

The following is an attempt to describe and evaluate Malaysia's political system with particular emphasis on interethnic and interreligious relations in terms of these generally accepted norms of good governance and human rights. As the international community has, in various declarations and conventions and despite reservations on the part of several states, accepted these standards as universal, a country may rightfully be evaluated in these terms. To anticipate one of the main findings of this study: Malaysia is wanting in many of these fields,

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[1] This is not to say that these are alternatives; our contention is that such a perception is not uncommon among leaders of Third World countries.

and the question of "Why is Malaysia not disintegrating?", the title of a recent publication by a Malaysian scholar (Shamsul 2001), certainly merits more attention.

This study is organized as follows: the three chapters deal with the plural society, the political system, and minorities facing the challenge of radical Islam, respectively. After a few historical remarks, the social construction of ethnic identity is addressed as well as the question of the ambiguous definition of Malaysia's diversity: is it ethnicity or religion? Some thought is then given to the wealth of the component groups, their development in recent decades and the perception of the different groups' leadership of the policy of "affirmative action" in favour of the Malays.

The chapter on the political system seeks to explore the functioning of the polity behind the veil of democratic forms – a veil thinly disguising an authoritarian form of government which can hardly be counted among the democracies of this world. Even if it cannot be termed a consociational "democracy", it could be a consociational "system" – but we conclude that important defining elements of such systems are simply absent. Malaysia could better be termed an ethnocratic system with some elements of consociationalism.

Third, special emphasis is given to religious minorities confronted with an Islamistic movement that has been gaining in strength since at least the second half of the 1980s. Some of the (few) options minorities use as counter-strategies are described, taking the Catholic Church as an example.

Apart important publications of Malaysian and other social scientists, our arguments are based on several dozen interviews with leading personalities in science, politics, the professions, the churches and non-governmental organizations in September and October 2005. As they were confidential, they are not mentioned by name. We are indebted to all of them for their time and the frankness of their opinions and information.

For funding we thank Unesco`s International Centre for Human Sciences in Byblos (Lebanon), and its director, Theodor Hanf, an institution interested in the peaceful management of ethnic conflicts, to which this study seeks to make a modest contribution.

<div align="right">Jürgen H. Wolff</div>

I. The Basis: Malaysia's Plural Society

    A. Historical background[2]

All the inhabitants of present-day Malaysia, including those in the politically and demographically dominant part, West (or Peninsular) Malaysia, are descendants of immigrant groups, with the possible exception of the "forest people", Orang Asli, a group with a population of about 100,000 on the fringes of society. As so often happens, the oldest of these groups, the Malays, who immigrated from China several thousand years ago, considers itself the true "sons" (or "princes") of the soil (Bumiputra, Bumiputera) and, hence, the others as immigrants who are, at best, tolerated as citizens of modern-day Malaysia, but not treated as equals.

Apart from a small residual category "others" (Europeans, etc.), the other groups are of Chinese (around 25%) and Indian (around 7 %) origin. In pre-British colonial times, Chinese traders formed separate groups in some coast settlements, and there were notable Indian cultural influences. But the ethnic diversity so characteristic of today's Malaysia is essentially due to British colonial economic policy, intended or not. Respecting the highly stratified Malay society in the local sultanates, the British penetrated Malaya[3] from Penang, establishing rubber plantations and tin mines. These were worked by large numbers of contract labourers from China and India – the British supposedly could not recruit Malay labour for these ventures, which gave rise to the myth of the cultural characteristics of the different groups which even is accepted as reality in some quarters, namely that the Malays, deferential and with a highly developed sense of status and social rank, were poor, but content to live peacefully in their kampongs (villages), leaving the Chinese and Indians to do the hard work in trade, the plantations, mines and railways, but never accepting them as equals, partly because they were (and for the most part still are) non-Muslims and as infidels could never be integrated into Malay society, e.g. through intermarriage.

For social scientists, such impressionistic observations are difficult to accept. People respond to values and incentives (perhaps the most basic law of economics); if members of one group (who, given their back-breaking work in the paddy fields, cannot be "lazy") refuse to enter contract labour, the incentives are not high enough. On the other hand, the relative

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[2] The following text is based largely on parts of my earlier book Wolff 1989, pp. 27ff., where the interested reader will find the relevant sources. – on multiculturalism, see also Derichs 2000 and Norma Mahmood 1994.
[3] Today's Peninsular Malaysia.

economic backwardness of the Malays after decades of special rights needs explanation. As shall be seen in Part II, the congruence of class and ethnic division is dangerous for ethnic accommodation in a consociational system.

Neither the Chinese nor the Indians were (or are) a homogeneous group, even if most of the immigrants came either from South China or from South India. Within each group a number of languages are spoken, although in recent times, Mandarin (kuo-yü) has become a lingua franca among the Chinese. We have less information on the Indians, but English appears to have become their common language. The caste system survives in part of Indian society; Tamils (probably the largest group) form the lowest social stratum.

In 1931, the Malays experienced the trauma of learning from that year's census that they were a minority (49.2%) "in their own country"; only in 1965 was this situation reversed (the Malays formed 50.1 % of the population in Peninsular Malaysia).

Linguistic differences, hence, combine with religious differences and differences in social stratification. Malay society has a very sophisticated system of social ranking, as evident in honorary titles, and people seek to maintain congruence between title, economic position and ethnic identity. For the Chinese, social stratification is based on more modern achievement criteria, particularly wealth. For the Indians, a mixture of class consciousness, religion (Hindu or Muslim), language and caste form the defining criteria of social rank. Obviously, the three groups can agree only with difficulty on a common system of social values, i.e. disregarding the increasingly prominent element of universal (western) values. It remains to be seen if a common ground on this basis can be found.

An unwritten constitutional contract forming the basis of Malaysian independence in 1957 – and widely held to be valid and, hence, real in its consequences – established some fundamental principles:

- Despite being regarded as immigrants and, hence, not true Malaysians, Chinese and Indians were granted citizenship (regarded as a privilege, not a right);
- In turn, these groups had to accept the political and economic prerogatives of the Malays, of the definition of Malaysia as a Malay state (from the head of state, who is elected from among the Malay sultans, to state symbols which mean nothing to non-Malays or are even distasteful to them) with non-Malay minorities.
- Often, a third element is included, freedom of business for non-Malays (in short, "political power to the Malays, the economy to the Chinese"). It this was the initial understanding, it was abandoned at the very latest after the 1969 riots against the Chinese which, rightly or wrongly, were attributed by the political leadership to the

imbalance between power and wealth, and replaced by special economic measures in favour of the Malays: the New Economic Policy and its successors, which is still in force today.

B. The social construction of ethnic identity

Up to now, the ethnic (and racial) groups in Malaysia were largely treated as a sort of objective reality: Chinese, Indians and Malays display all features of separate groups, starting with skin colour and other physiological characteristics, speaking different languages, adhering to different religious and following distinct ways of life – even up to different calendars marking, e.g., the New Year. The age-old problem of defining ethnicity[4] seems to be no problem at all in the Malaysian context – you can normally[5] tell which group people belong to just by looking at them. The constitution of the country, to define precisely the limits of the privileged group, even ventures to state who is Malay.[6]

That said, it is equally true that ethnic identities have been formed by historical processes and are, sociologically speaking, subject to permanent confirmation and transformation. In a word, they are in a constant state of flux owing to new interpretations of history (including the invention of tradition, see the Islamists' vision of a golden age of early Islam which never existed in that ideal form), by day-to day discussion and interaction with other members of groups and, most importantly in the Malaysian context, by interaction (or avoidance of it), with members of other groups considered not as "we", but "they".

For Malayan identity, three pillars are important (Shamsul 2001 a, p. 357), bahasa, raja dan agama (language, ruler and religion). As the Malay sociologist Shamsul has shown (idem ff.), in a non-European context, by the sixteenth and seventeenth centuries, "Malay" and "Malayness" "were associated with two major elements, (I) a line of kingship acknowledging

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[4] Regardless of the abstract definition applied, there will always be groups generally accepted as ethnic groups which do not fit the definition. Even Max Weber's very cautious definition ("subjective belief in a common origin, regardless of whether kinship exists objectively or not") does not cover certain groups, e.g. the Bosnians ,who base their identity on their common Muslim faith. In the end, one is left with the minimum that certain people feel closer to each other than to other people and are accepted as distinct by other people. Difficult though an abstract definition may be, ethnic struggles are among the fiercest and most difficult to contain.
[5] Because of intermarriage, this is not always the case. Sometimes, interethnic groups themselves acquire a distinct identity, e.g. the Nyonya in Malacca, who are descendants of European and Chinese.
[6] A person who speaks Malay, adheres to Malay customs (whatever these may be) and is Muslim (hence, a person converting to another religion, by definition, is no longer Malay). It is often believed (and was told us by several interviewees) that this definition is complete and, hence, does not mention a common descent. This, however, is incorrect, a fourth element requires that a parent, grandparent or the person in question must have been born in Singapore or Malaysia before independence or is a descendant of such a person. – In addition, Muslims of non-Malay races who speak Malay, observe Malay custom and have roots in the country by way of birth or descent can be deemed to be Malays for the purpose of the constitution; Faruqui 2003a , p. 17

descent from Srivijajya[7] and Malaka[8] and (II) a commercial diaspora retaining the customs, language and trade practices of Malaka" (idem, p. 361).[9] This self-definition was confirmed, shaped and modified by the British. "… they operated from the idea that human beings should be classified in a scientific manner. By way of various investigative manners (such as historiography, surveys, museology, enumeration, travel surveillance) the British constructed a corpus of knowledge supported by 'facts', and introduced many names, labels and categories that people in Malaysia regard as natural, self-evident and existing since time immemorial" (idem, p. 363). With the formation of the Federation of Malaysia in 1963, a new official term (Bumiputera) was coined that included, in addition to the Malays, indigenous groups in Sabah and Sarawak who professed Islam[10] and had, by and large, political dominance in North Borneo, despite forming only a minority of the population.

Hence, an "authority-defined social reality" (Shamsul 1996, p. 323) became an accepted part of the social reality and is accepted as such by every Malay – even if contested in its political consequences by the non-Bumiputera, the non-Muslim Bumiputera in Borneo and the radical Islamic bumiputera group organized in the PAS party (idem, p. 324).

A similar development can be observed for the "Chinese" and the "Chineseness" (Shamsul 2004, p. 122ff.). In the pre-colonial era, "Chinese as a social category did not have the same 'ethnic' or 'racial' connotation it has today" (idem, p. 122). Chinese traders had, nevertheless, a special position because some Malay rulers had to pay tribute to the Chinese rulers in the thirteenth and fourteenth centuries. Many of the Chinese married local women and were assimilated into the local community (see above), this was regarded politically neutral and socio-culturally unproblematic.[11] Enter the British.

On the one hand, as was already stated, Chinese immigration was furthered by the attractions of the colonial economy. Second, the British sense for classification led them to classify the different Chinese "dialects" (Shamsul 2004, p. 124) as "Chinese" in the third census in 1871. (The Malays were classified as "Malay and other Natives" and the Indians, as a new category, as "Tamils and others from India"; idem). Third, by 1900 immigration had

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[7] A Buddhist kingdom in Sumatra controlling the Straits of Malacca.

[8] The sultanate became Islamic in 1414 and survived until conquered by the Portuguese in 1511; the other sultanates on the Peninsular consider themselves descendants of Malacca and were, in fact, founded by members of the royal family ousted by the Portuguese.

[9] In a more recent article (Shamsul 2004, p. 123), the same author maintains: "… what we know today as Malays were then (i.e. in pre-colonial times) labelled not as Malays but as Javanese, Buginese, Minangkaus, Madurese, Arabs, Ceylonese, Indians, Portuguese, and Spanish, again connoting their place of origin, language, and culture." I have some difficulty reconciling these statements.

[10] See the following digression on ethnicity and religion.

[11] Shamsul does not mention the fact that the Chinese were not a uniform group; as they came from different regions of southern China and even spoke different languages, they could be seen as a single group only with difficulty.

produced the critical mass for a Chinese social network, including Chinese schools, business, cultural and educational associations (idem, p. 126) as well as international connections to Chinese in other countries and China itself. Nationalism – and political divisions – spreading from the Chinese heartland were enthusiastically adopted by the Malaysian Chinese, creating a new sense of identity (idem, pp. 125f.). Today, "Chinese identity and Chineseness, as perceived by the Chinese in Malaysia, is essentially about their language and culture imparted through education" (idem, p. 127). It remains to be seen if the rise of the Chinese[12] economy will lead to a new identification with China[13] or if the consciousness of being a separate cultural group in and identifying with Malaysia[14] will prevail.

We have less information on the evolution of an Indian identity. However, given

- that before the advent of the British, India was never a unified state – even the Mogul Empire did not include the South, and
- that British colonial influence was, hence, indispensable to the Indian understand of themselves as a nation,
- we may infer that this also holds for the Indian diaspora in present-day Malaysia, which was labelled Indian (rather than Tamil etc.) only in British censuses.

This does not mean that Malays, Chinese or Indians are monolithic blocs – quite the contrary.[15] The point is that an individual's identity (self-definition) varies with the social context. Vis-à-vis other people from Bochum (my present home town) I regard myself as inhabitant of my town quarter (Stiepel); meeting a person from Dortmund, I am from Bochum; in an encounter with people from Baden-Württemberg (a state in southwestern Germany), I consider myself as a citizen of North Rhine Westphalia; meeting a French person, I am German – and so on. Similarly, internal cultural, linguistic or political divisions, in no way prevent Malays, Chinese, or Indians in Malaysia from treating a meeting between people of different groups as precisely that: a Malay meeting a Chinese, a Chinese meeting a Malay, etc.

This observation is reinforced by politics: for decades, the official policy has confirmed and reinforced communalism, in particular stressing the differences and cleavages between Malays (or Bumiputra) and non-Malays, and giving the former privileges (which violates the universal principle of equality before the law, see below). Telling one group that

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[12] According to World Bank data, in terms of purchasing power parity, the Chinese economy is the second largest economy in the world. This will inevitably affect the global power configuration.
[13] This was mentioned occasionally by interview partners.
[14] The prevailing attitude among Chinese interviewees in our sample.
[15] Possibly this is not entirely true for the Indians who do not have an Indian opposition party outside the Barisan Nasional, see below.

it is endowed with special privileges and others that they not only have to respect that, but also actively pay for these prerogatives reinforces the sense of ethnic identification – and provokes resistance and opposition among the disadvantaged groups.

In (seeming) opposition to this continuous reinforcement of communalism, in 1991 the then-prime minister Mahathir launched his vision 2020 (Wawasan 2020; Shamsul 1996, p. 327; Shamsul 2004, p. 129) to turn Malaysia into a fully industrialized country by that date. Among the political goals he mentioned was Bangsa Malaysia, a united Malaysian nation, promising "to a certain extent" (Shamsul 2004, idem) equal treatment for all ethnic groups, in effect abandoning the policy of special privileges for Malays.

The success of this political goal may be questioned for several reasons:
- it is unlikely that the abolition of special privileges for the Malay is politically feasible (see below);
- communalism has been reinforced since colonial times and now has strong roots in all groups;
- the concept lacks clarity: is it a variation on the concept of a daily plebiscite – Renan's famous definition of a nation, which is based on selective remembering and collective forgetting of history – and, hence, the Swiss model of three distinct cultures united by the will to remain united – or is the Malaysian Malaysia of this grand design more of a Malayan Malaysia, as is suspected by a good many Chinese and Indians?

To summarize: in a long process of social construction of ethnic identities – in particular the British practice of classification and the Malaysian practice of constitutionally entrenched privileges for Malays – Malays, Chinese, and Indians have interacted with each other on these terms. The fact that this identity construction is a product of history in no way detracts from the fact that communalism is today a reality of daily and of public life. The question remains whether, in the long run, the frustration of the disadvantaged groups will pose a serious threat to political stability.

Digression: Ethnic or religious identity?[16]

As stated above, being Muslim is an indispensable – and constitutional – element of being Malay. In one sense, this is an obvious paradox with curious consequences.

First, Islam (like Christianity) claims to be a world religion. The revelation transmitted by the Prophet is directed at all mankind; every human being is invited to recognize the truth and to convert to Islam. Only a minority of the Muslims live in the Middle East, the birthplace of Islam. In principle, Islam is not tribal, ethnic or national; the religion recognizes every Muslim as equal to every other Muslim, regardless of ethnic origin. Muslims are members of the community of believers and as individuals directly answerable to God.

A state in which the constitution states that "Islam is the religion of the Federation" has to treat all Muslims as equals (apart from the secular principle of equality of all citizens before the law). As seen above and will be discussed in greater detail below, this is not the case: Islam is part of the biggest ethnic group's definition of itself.

Second, a Chinese converting to Islam would have to be regarded primarily as Muslim by Malay Muslims. As invariably stated by our respondents, this is not the case: a Chinese is regarded primarily as Chinese, no matter what his religion.

The whole matter is complicated by integration into the Malay group: children of Malays, including the progeny of interethnic marriages, are considered to be Malays. Many of our interviewees with a foreign (e.g. Middle East or Thai) background were integrated into the Malay community. Even zealous advocates of the Malay cause (e.g. Mahathir) are said to have foreign ancestors.

In a word: the discussion on "Malayness" has not produced a consistent result – and perhaps this is not even possible as the different ethnic, religious and economic strands of the discussion are at least partly contradictory and, in addition, subject to very real interests shaping the intellectual discourse.

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[16] An older title on this subject is Hussin Mutalib 1990

C. Wealth, poverty and the ethnic division of labour: Still valid after all these years?

1. The Background: The goals of Malaysia's economic and social policy in recent decades.

As stated repeatedly in political declarations and in the different Malaysia plans (the Eighth Malaysia Plan, 2001–2005, is currently in force), Malaysia's economic and social policy since 1970 has had three broad goals:

- economic growth;
- restructuring society, i.e. producing relative economic equality between the different racial groups;
- a marked reduction (or even eradication[17]) of poverty irrespective of racial group.

Most of our respondents feel that only the first goal has been achieved. As we shall discuss in Part 3, this is largely a misperception of the social reality official data can be trusted.

The political background of these goals is, first, the ambition of the political leadership, and in particular former Prime Minister Mahathir, to close the gap separating Malaysia and fully industrialized countries (Kennedy stated that a nation's political importance is closely related to its economic [and military] strength; see Kennedy 1987[18]) and, second, the assumption that racial harmony (and, hence, political stability) is threatened by an imbalance between political power and economic wealth (and, to a lesser degree, by the widespread poverty at the beginning of the period under consideration). This imbalance is widely perceived as the underlying cause of the racial riots of 1969.

The goals of economic and social policy in different stages have had slightly different agendas (see Henderson et al. 2002):

- New Economic Policy (NEP), 1970–1990;
- New Development Policy, 1990–2000; and the
- New Vision Policy since 2000 (see Eighth Malaysia Plan, p. 4).

This last source confirms the three main political goals mentioned at the beginning of this paragraph: economic growth ("Vision 2020 … laid out the direction for Malaysia to become a fully developed nation by 2020", Plan, p. 4); restructuring of society ("the government will address the issue of income imbalance, particularly between ethnic groups, urban-rural population, and regions" [identical in part because of the regional concentration of ethnic

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[17] See Eighth Malaysia Plan, pp. 4, 9.
[18] Rhetorically, many governments of developing countries have a similar agenda. In practice, autocratic control of political power and resource extraction (taxation, international credits and development aid), regardless of the consequences, is much more important than development. This is at least the growing consensus explaining Africa's – and partly also Middle East's – backwardness. Details in Wolff 2005, pp. 158ff., 244ff.

groups; J.W.] Plan, p. 10) and poverty eradication ("eradicating poverty irrespective of races
… will remain (a) key (strategy)"; the anti-poverty program SPKR is an "integrated package
encompassing economic, social and physical components, targeted towards eradicating
poverty in areas and among groups with a high incidence of poverty"; idem). The goal is to
lower the incidence of absolute poverty to 0.5% by 2005 (idem).

Despite several ups and downs of the overall economic growth rate, the key indicators
for Malaysia's economy remain impressive. GDP growth rates (in constant prices) in the
different plan periods up to 1995 varied between 5.2 and 8.7 % a year (Henderson et al., p. 8,
based on Roslan 2001). Even the impact of the Asian crisis of 1997 has now been overcome:
taking 1987 as base year for the deflator, real per capita GDP has risen from RM[19] 8054 in
1995 to RM9249 in 2003 (Economic Statistics, Time Series, p. 6), which is equal to a yearly
growth rate of 1.7%, which is far higher than, e.g., Germany's rate for the same period. Since
1993, the growth rate has increased; the GDP growth rate was 7.1% in 2004 and is expected
to be 5.0 % in 2005 and 5.5 % in 2006 (Ministry of Finance, Economic Report 2005 / 2006;
see also the World Bank's country assessment, as reported in New Straits Times, 4 October
2005). Between 1971 and 2002, real GDP per capita growth was 4.2% per year (Economic
Planning Unit / UNDP 2005, p. 48) – an overall increase of no less than 258%.

As we are primarily interested in interethnic relations, we shall not go into greater
detail here. Suffice to repeat that Malaysia has produced impressive economic growth in
recent decades, and that this has given the political leadership much leeway to pursue its other
important goals of reducing the economic imbalance among the ethnic groups and eradicating
poverty irrespective of race. To that end, a number of political measures were taken.

2. "Affirmative action" and poverty eradication: Definitions and instruments

The usual definition of affirmative action is special measures to improve the lot of
underprivileged groups. Apart from measures targeted at these particular groups (special
efforts in the field of education, special credits, etc.), the distinguishing feature of affirmative
action is the fact that, other things being equal, a member of this group is preferred to other
groups precisely because he belongs to this group. Having obtained the same grades, A, a
member of the underprivileged group, is admitted to university and B (a non-member) is not.
In a more extreme version, A is preferred to B even if his (or her) accomplishments are
inferior to B's. The justifications for affirmative action are either previous discrimination

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[19] Malaysian Ringgit (formerly dollar). Exchange rate at the time of field research was around RM4.5–4.6 per
euro; in terms of purchasing power parity it was, however, considerably higher.

against the favoured group – in other words, the correction of past injustice – or some defined ideal of social justice, e.g. because group x constitutes x% of the population, x% of all lawyers, politicians, artists, or fishermen have to come from group x. Both justifications are open to serious criticism on ethical and practical grounds (see below).

Definitions of poverty vary widely. Roughly, we may distinguish between subjective and objective definitions, and among the latter between absolute and relative definitions.[20] The first group is based on feelings of marginality, deprivation, exclusion, etc., i.e. a psychological reaction to poverty on the part of the poor rather than a definition of poverty as such. The second defines poverty either as personal or household income or consumption in terms of some absolute standard (e.g., a poverty line, itself defined as the amount of income needed to satisfy one's basic needs), or as a percentage of some relative standard, e.g. the average income of a society.

This relative definition confuses poverty with distribution (two entirely different classes of concepts): for instance, if income distribution in a society is unchanged, steady economic growth will also improve the lot of the poorest group; yet their percentage of the population may remain unchanged even if they do eventually live in villas and eat caviar.

Malaysia has adopted an absolute standard of poverty for her national statistics – and rightly so. To state that poverty eradication was neglected confuses income distribution with poverty. We will discuss this point in greater detail later.

In the last instance, affirmative action is based on the "special position" of the Malays in the constitution, see Chapter II). What are the measures the government has taken to implement it and what indicators has it used to evaluate progress in this field?

Some of the measures are intended to enhance the economic position of the Malays vis-à-vis the other groups, especially the Chinese, who are rightly regarded as more affluent than the Malays.

First, as "princes of the soil" (Bumiputera), the "indigenous" groups (first and foremost the Malays) have special land rights; land was the most important asset and half a century ago the society was overwhelmingly rural – moreover, as in most rural societies, land also has great symbolic value. Special measures, administered by FELDA, a special agency to promote agriculture, in practice favoured rural Malays.

Second, Malays were granted, and to some extent still have, easier access to higher education – to a degree that it cost the BN Chinese votes (see Chapter II). Traditionally, Malays had much less formal education than Chinese and Indians (as reflected previously in,

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[20] For details, Wolff 1995, 1997, 1999 and 2000.

e.g., their weak representation in the technical branches of the bureaucracy); positive discrimination aimed at correcting this imbalance.

Third, other special measures also aimed at furthering Malay representation in the modern sector, either by compelling non-Malay entrepreneurs to enter into business partnerships (joint ventures, etc.) with Malays, or by giving Malays preferential access to licenses in the industrial sector,[21] or by favouring Malays in the areas of commerce, transport and construction, or by extending credit on favourable conditions. The redistribution of wealth was to be achieved not by expropriating some group to enrich another, but by channelling the benefits of economic growth towards the Malays.

Finally, Malays have easier access to public services, e.g. a higher quota of low-cost housing, and this at a reduced price (Malays pay 5% less than other groups).

In a nutshell, the former identification of race with wealth and economic function was to be abolished (Henderson et al., p. 11), and to this end, the state intervened heavily in practically all fields of economic and social life. This was particularly easy as the public bureaucracy was dominated – and today is practically monopolized – by the Malay group.

What were the concrete goals of this affirmative action policy?
- The Malay share of capital invested[22] was to rise to 30 % by 1990.
- The average wealth of the Malays was to be identical to that of other groups; at least, the gap was to be diminished considerably.
- Poverty was to be practically eradicated (as the Malays were poorer on average, this was also a preferential treatment of the Malays).
- Finally, the former "ethnic division of labour" was to disappear.

3. Results

a) Share of capital:

Despite being more than 60% of the population, in 2002 the Bumiputera percentage of share capital of limited companies (at par value) was only 18.7 % (Midterm Review, Table 3–5, p. 65), barely more than twenty years earlier (17%; Wolff 1989, p. 147). Even excluding foreign capital (28.9%), Bumiputera capital is no more than 26.3% of invested capital, considerably less than half their share of the population. That is higher than in 1979 (1.9%; disregarding foreign capital: 4.8%, Wolff 1989, p. 126); evidently this growth occurred in the 1980s, since

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[21] Malaysia's industrial policy is highly statist, which, as might be expected, has had negative consequences for industrial development.
[22] Including government-administrated "Malay" trust funds.

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when there has been stagnation (or perhaps even retrogression; in 1995 the figures were 20.6% and 28.4%, respectively; Midterm Review, p. 64).

By way of comparison, in 1979, Chinese capital accounted for 22.5 % (excluding foreign capital: 57.3%, Wolff 1979, idem), in 2002, for 40.9% (or 57.5%; Midterm Review, idem). Hence, the Chinese were able to maintain their share of invested capital; the growth of the percentage of Malay capital was at the expense of foreign capital.

Things are even worse in the light of the following: according to official statistics, nearly one quarter (24.6%) of Malay capital is held through institutions that channel Bumiputera funds or through trust agencies. It is legal fiction to regard this capital as "Bumiputera" capital. The debates on capitalism and socialism have concluded that the legal ownership of capital is less important than the right to direct a business venture[23]. For the aforementioned funds, this means bureaucrats. Are they "Malay" in the same sense as an individual Malay operating his own business?

Excluding agencies and funds, in 2002 only 14.1% of invested capital was held by Malayan individuals, or 19.8% excluding foreign capital (Midterm Review, idem). The target of raising the average wealth of Malays to that of the Chinese has not been met – for reasons we will have to discuss in greater detail below.

By sector, respective to its overall share, Malaysian capital is overrepresented in agriculture (28.3%), mining (19.8%), construction (24.5%), transportation (23.6%) and finance (20.7%), but heavily underrepresented in manufacturing (10.5%), utilities (12.4%) and trade (13.8%) (Midterm Review, p. 67). When it comes to capital, the old division still exists, except that branches heavily dependent on government contracts (construction, transportation) show a marked improvement of the share of Malay capital. However, in not one sector does Malay capital even approach the Malay share of the population.

b) Average income of different groups:

Older statistics of the relative average income of the different ethnic groups can be found in the various plan documents (and are summarized in Henderson et al., p. 3). The percentages break down as follows:

Distribution of household income by ethnicity, Malaysia, 1970, 1976, 1984 and 1990, as a percentage of the Malaysian average:

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[23] On Bumiputera entrepreneurs, see M. Fazilah 2003

Ethnic group	1970	1976	1984	1990
Malaysia	100	100	100	100
Bumiputera	65.2	67.1	77.8	80.5
Chinese	149.4	153.0	137.1	139.8
Indian	113.0	104.6	99.9	103.6
Others	308.3	246.5	224.1	81.8

Source: Calculated after Henderson et al., p.3, using data from different Malaysia Plans

In relative terms, and considering only the long-term development from 1970 to 1990, the Bumiputera have increased their relative position vis-à-vis the Chinese from 43.6% of Chinese income in 1970 to 57.6% in 1990).[24] Compared to the Chinese, Indians have practically maintained their position (75.6% and 74.1%, respectively).

In recent years, shifts in the relative income position of the different groups have been marginal, as can be seen from the following table:

Mean monthly gross household income by ethnic group, 1995, 1997, 1999 and 2002, as percentage of Malaysian average

Ethnic group	1995	1997	1999	2002	Average annual growth rate, 1995–2002
Malaysia	100	100	100	100	5.9
Bumiputera	79.4	78.2	80.3	78.9	5.8
Chinese	143.1	143.3	139.8	142.1	5.8
Indians	105.9	111.1	109.3	101.1	5.2
Others	63.3	64.5	55.5	71.9	7.7

Source: Calculated using data from the Yearbook of Statistics 2004, p. 252

Bumiputera and Chinese have, by and large, maintained their relative positions: the mean income of the average Bumiputra household was 55.5 % of a Chinese household in both 1995 and 2002, the Indians lost somewhat in relative terms and the poorest group ("others", mainly Orang Asli) made significant gains. In other words, in the seven years under consideration the income gap between "wealthy" Chinese and "poor" Malays has not diminished. On average,

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[24] The extreme variation in "others" probably reflects the departure of European expatriates after Merdeka.

Malay household income is still slightly higher than half that of an average Chinese household.

In the very long term of more than 30 years, a comparison between Malay and Chinese average household income shows that the relative position of the Malays has improved (43.6% 1970 compared to 55.5% in 2002). However, Malays had already reached 52.4% in 1979 (calculated from data in Henderson et al.; idem). It is evident that in the last quarter of a century the Malays have made little or no economic progress relative to Chinese.[25] In this sense, affirmative action has been unsuccessful. The bitterness it has created among Chinese (see below) is in no way balanced by success for this policy. We were told by various respondents that the official statistics exaggerate the relative economic backwardness of the Malays. We cannot, however, confirm or disprove this claim.

c) Income distribution within the different groups

By their nature, means (one absolute figure –disposable income of all households – divided by another absolute figure – number of households) do not tell us anything about mean variation, for which we need additional measures (distribution parameters). The Gini coefficient is the most used indicator for a quick, if incomplete, picture of the variation of a parameter within a population, in our case household income. It ranges between 0 (all households dispose of exactly the same income) and 1.0 (one household has all income). In the Malaysian context, this parameter is especially useful because it is often assumed that an emerging middle class has grown rich, leaving the lower strata in poverty. An alternative measure of income equality is the share of income by population decile or quintile.

What about the data?

Gini coefficients by ethnic group are evidently a sensitive issue "whose diffusion is not encouraged" (see Chapter II). The ,most recent Gini coefficients we found are those for 1997; the long-term development is shown in the following table:

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[25] See also the telling graph in EPU / UNDP 2005, p. 40

Gini coefficient by ethnic group, Malaysia,[26] 1957–1997

	Overall	Malay	Chinese	Indian
1957/58	0.412	0.342	0.374	0.347
1967/68	0.444	0.400	0.391	0.403
1976	0.529	0.494	0.505	0.458
1984	0.480	0.469	0.452	0.417
1990	0.446	0.428	0.423	0.394
1997	0.4586	0.4495	0.4188	0.4092

Source: Henderson et al. 2002, p. 3, following Roslan 2001

We can observe a characteristic development for the overall index as well as for the coefficients for the different groups: starting from a relatively equal income distribution before independence, inequality rose to its peak in 1976. This is true for all races. Since then, inequality has diminished somewhat and is now closer to its level at Merdeka. Nevertheless, it is equally true that inequality of income at the end of the 1990s is still higher than in the 1950s or 1960s.[27]

If we look at the relative position of (unfortunately only three) income groups (Economic Planning Unit / UNDP 2005, p. 46f.), we observe a trend to greater inequality for the overall index in the 1990s (breakdown by ethnic group is not available, see above.)

Income shares by income group, %, Malaysia, 1990–2002

Household income share	1990	1999	2002	Average annual real growth rates
Top 20 %	50.0	50.5	51.3	5.0
Middle 40%	35.5	35.5	35.2	4.7
Bottom 40%	14.5	14.0	13.5	4.1 (Malaysia: 4.7)

Source: see text

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[26] At first glance, there seems to be a serious inconsistency in that the overall coefficient is more unequal than the coefficient for the groups comprising the Malaysian population. Two considerations explain this result: first, the residual category "others" (see above) has been omitted; second, the overall coefficient measures not only the inequality *within* the different groups, but also *between* them – and the income *of* the ethnic groups is quite unequal (see above).

[27] It may be repeated that this says *nothing* about the level of poverty in absolute terms.

Even in the long run, the change in relative position of the different income groups is relatively small (in 1970, e.g., the figures in descending order were 55.7%, 32.9%, and 11.4%, respectively; idem); "… there is growing international evidence that economic growth has little discernible effect on relative income distribution …" (idem, pp. 47f.). For Malaysia, it may be added that public policy has been unsuccessful in changing the relative position of the ethnic groups (see above, b) – which would have enhanced the relative position of the lower income groups and would have lowered the Gini coefficient.

To summarize: inequality of income rose until 1976, declined into the 1990s and has increased since then; the changes, however, are relatively insignificant. By and large, the overall income distribution has not changed dramatically; the same is true for the distribution within the different groups.

d) Poverty

"… economic growth can confidently be expected to reduce poverty. But public policy can also work to strengthen the favourable effects of economic growth. In Malaysia, it is clear that both factors … made important contributions to the impressive reduction in the incidence of poverty." (Economic Planning Unit / UNDP 2005, p. 48.)

First, some data, which show that the reduction in poverty is not only "impressive", but dramatic.

Incidence of poverty by ethnic group, Malaysia, %, 1970-2002

	All ethnics	Bumiputera	Chinese	Indian	Others
1970	49.3	64.8	26.0	39.2	44.8
1985	20.7	28.7	7.8	10.1	18.8
1990	16.5	23.0	5.4	7.6	22.8
2002	5.1	7.5	1.5	1.9	21.7

Source: UNDP

The only group(s) where the reduction is relatively low is "others" (probably mostly Orang Asli); however, this group is small, as is testified by the overall rate.

Taking the figures at the face value, Malaysia has a smaller percentage of poor people than the United States or Germany. Taking into account the different countries' definitions of poverty, this conclusion would, however, be incorrect. As we are not discussing international

comparisons, we may simply note that the overall level of poverty is little more than 10 % of what it was three decades ago.

On the other hand, excluding "others", even today poverty is highest among the Malays, followed by Indians and Chinese. The impression of the man in the street, hence, is correct – but it is incorrect to regard the Malays as a "poor" ethnic group, a rationale for continuing affirmative action indefinitely.

Apart from Malaysia's impressive economic growth, there have also been a number of specific public programmes aimed at eradicating poverty, from agricultural development, settlement schemes for the Orang Asli, micro-credit schemes and scholarships for low-income families under the New Economic Policy, through a development programme for the hard-core poor, commercialization of farms and expansion of education and training under the National Development Policy, to special programmes for Sabah and Sarawak and others to enhance the skills and education of vulnerable groups under the current National Vision Policy (Economic Planning Unit / UNDP 2005, p. 54). For reasons of space, we cannot go into details here.

Poverty is unequally distributed by urban or rural residence and by state (in 2002, Sabah had the highest incidence of poverty, 16%, and the Federal Territory of Kuala Lumpur, the lowest, 0.5%; Midterm Review, p. 61). For reasons of space, details are omitted.

Looking at the significance of the two groups of factors explaining poverty reduction, economic growth is by far the most important: "as a simple rule of thumb, a 1 per cent increase in mean income will reduce the incidence of poverty by 2 per cent … This is often referred to as the 'growth elasticity' of poverty reduction." (Economic Planning Unit / UNDP 2005, p. 48.) For Malaysia, this elasticity is calculated to be 1.8%. A simple calculation with the quoted data shows an increase of real GDP per capita of 258% in that period, which explains practically all of the reduction in the incidence of poverty. "Economic growth was undoubtedly the linchpin of Malaysia's successful poverty-eradication programme." (Economic Planning Unit / UNDP 2005, p. 49.) Of course, it is not excluded that the special programmes intended the help the poor also had an impact on economic growth and, thus, indirectly contributed to poverty reduction.

To summarize: Contrary to widely held beliefs, poverty has been dramatically reduced in the last decades. This is due primarily to economic growth and to a minor degree to government programmes aimed directly at enhancing the position of the most vulnerable groups.

e) Ethnic Division of Labour?

The most recent available breakdown of employment by occupation and ethnic group is for 2003 (Midterm Review, p. 70). Omitting the absolute figures, we get:

Employment by occupation and ethnic Group, %, 2003

Occupation	Bumiputera	Chinese	Indian	Others	Total
Legislators, senior officials, managers	5.5	13.8	6.2	3.3	8.3
Professionals of which:	6.2	5.8	5.2	4.3	5.5
Lectures, pre-university and secondary school teachers and writers and artists	3.3	1.3	1.6	2.0	2.5
Technicians and associate professionals of which:	14.9	12.4	14.8	5.9	13.9
Primary school teachers and nurses	5.0	2.5	2.9	2.3	2.8
Clerical workers	10.8	11.0	10.2	3.1	10.6
Service workers, shopworkers, merchants and traders	14.3	18.4	13.2	7.5	15.4
Skilled agricultural and fishery workers	15.6	3.6	4.9	21.8	10.8
Craftspeople and artisans	8.9	16.3	9.3	6.9	11.3
Plant and machine operators and assembly workers	15.8	10.9	20.0	15.2	14.6
Unskilled labourers	8.1	7.8	16.2	32.0	9.2
Total	100	100	100	100	100

Omitting "others", which account for only 3.2 % of employed people, we may draw the following conclusions:

- Among the occupations with the highest education, Chinese are heavily overrepresented and Bumiputera and Indians underrepresented, the Bumis more so than the Indians: despite accounting for 56.6% of all employed people, only 37.9% of this highest category are Bumiputera.
- Bumiputera are slightly overrepresented among technicians and heavily so among teaching professions of all ranks and in agriculture.
- Chinese are overrepresented among service and sales workers and heavily underrepresented in agriculture. They are overrepresented in crafts.
- For the Indians, only their underrepresentation in agriculture and their over-representation among unskilled labourers are notable.

We may conclude that remnants of the former ethnic division of labour still exist: Malays are overrepresented in agriculture and teaching, in which, consequently, the other groups are underrepresented. The highest occupations are clearly dominated by the Chinese (32.6 % of all employed, but 54.6 % of this category are Chinese), and Chinese also dominate commerce (38.9% are Chinese) and the crafts (47.0%).

Let us look more closely at the registered professionals[28]:

Registered professionals by ethnic groups, 1995 and 2003, %

Profession	1995				2002			
	Bumiputra	Chinese	Indian	Total	Bumiputra	Chinese	Indian	Total
Accountant	16.1	75.2	7.9	100	20.0	74.6	5.1	100
Architects	27.6	70.7	1.5	100	43.6	52.6	1.3	100
Professionals					31.1	62.9	1.6	100
Doctors	33.4	32.1	32.0	100	38.5	29.9	27.5	100
Dentists	30.9	45.7	21.9	100	38.2	40.3	19.1	100
Veterinary surgeons	40.2	23.7	33.5	100	40.1	29.8	25.7	100
Engineers	21.6	71.8	6.6	100	43.5	50.1	5.3	100
Professionals					26.5	65.1	6.5	100
Surveyors	48.3	45.6	3.2	100	46.0	49.3	3.1	100
					44.0	51.2	3.3	100

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[28] On education, see Nik Azis Nik Pa 2003

Professionals								
Lawyers	29.0	45.3	26.6	100	35.1	38.4	25.8	100
Total	27.3	54.4	17.0	100	37.2	50.1	11.2	100

Source: Eighth Malaysian plan, p. 69, and Midterm Review, p. 72. Note: Figures do not add up to 100% because the category "others" has been omitted from the table.

As is immediately obvious that compared to their respective share of the population (in 2005, Bumiputra: 67.3%; Chinese: 24.5%; Indians: 7.2%; Eighth Malaysian Plan, p. 89), even in 2002 Malays were still heavily underrepresented and Chinese and Indian heavily overrepresented among professionals with the most training. However, this imbalance decreased markedly in the seven-year period from 1995 to 2002. Even today, however, the Malay percentage of highly trained professionals is only half that of their population share, whereas that of the Chinese is around twice, and that of the Indians around one and a half times their population share. At least part of the difference in the earnings of the different groups (see above) can be explained by this fact – but this leaves the question of *why* the different groups enter university in such different percentages.

It may be noted, finally, that the sheer numbers do not tell us very much on the quality of the professionals. If it is true that not ,less than 80.000 professionals (mostly Malays) are unemployed because of missing competences required by the economy (first and foremost a thorough mastering of English), it may be assumed that also the employed Malay professionals do not have the same quality of training (and the same earnings) as Indian and Chinese professionals.

To sum up: a marked ethnic division of labour still exists in 2002, but there is a definite trend towards narrowing this division.

4. Affirmative action and its critics

Affirmative action violates a fundamental principle of modern statehood accepted since at least the Age of Enlightenment, equality before the law. All people should be treated equally regardless of race, sex, creed, descent or whatever he or she has or is by birth.

To act otherwise requires justification. As already stated, two classes of such justifications are regularly raised in political discussions:

- first, the need to redress past injustice done to certain groups of people owing to slavery, apartheid, genocide, etc.; and,

- second, a vision of society that considers certain characteristics just (a "fair" distribution of income and wealth, group quotas for professions, etc.).

A subgroup of this second class is the contention that an "unjust" relation of power and wealth may threaten political stability and, thus, the well-being also of powerful or wealthy groups.

We have demonstrated the continued imbalance of income, wealth or percentage of highly trained professionals among the different groups in Malaysia in purely quantitative terms. When it comes to political power, the economically disadvantaged group, the Malays, are in the stronger position – and they use this position to further the economic well-being of their own group.

In Malaysia, the first argument cannot be (and is not) used: after all, the Malays were favoured by the British colonial power, and the last groups of immigrants to the country did the work that was evidently unattractive to the Malays. Many immigrant groups virtually everywhere behave similarly, entering and even monopolizing activities the "indigenous" people do not find attractive. Hence, it is all the more remarkable that Chinese and Indians have succeeded in improving their economic status so much that today they are richer than the Malays.

This leaves the second argument. Is it "just" if different ethnic groups have exactly the same economic status and the same proportions by economic activity? Is it correct if the state taxes or discriminates against one group – only temporarily, it is always said – to better the lot of other groups?

The answer in Malaysian constitutional law is a clear, if qualified (Faruqi 2003), yes. It is a direct continuation of various treaties between the British and the Malay sultans which required the British "to safeguard the special position of the Malays …" (Federation of Malaysia Agreement, 1948, as reprinted in idem, p. 5). Pre-independence ethnic bargaining and accommodation subsequently became part of the famous social contract among the various communities (idem, p. 4f.). Moreover, many Malay privileges are entrenched in different ways, e.g. "any Bill to abolish or curtail them may be caught by the law of sedition" (idem, p. 6).

The sub-strand of this argument holds that political stability would be impaired by continuing economic imbalance between the races. For an impartial observer, it is difficult to see any justification in a modern country for continuing to favour a group that was always the most privileged.

Even the second argument is open to doubt: for Chinese and Indians, the continuing discrimination against them is a continuous source of anger and frustration. In practice, affirmative action means that they may not enter the civil service (because there is a Malay competitor with, perhaps, lower qualifications); that in competition with Malays they win fewer scholarships or less access to higher education; that they do not get business permits because the quote for their group is full, whereas a Malay gets not only the license but, in addition, easy credit … etc. (see Art. 153 of the constitution). Frustration and anger of the groups discriminated against are certainly not conducive to political stability.

On the other hand, we were told that the abolition of the Malays' special position is politically impossible. Any party trying to do so would be penalized by the voter. This makes it all the most interesting that the PAS, an Islamistic opposition party, officially claims that it wants to end these privileges. If UMNO accepted a similar position, the PAS could not outbid it. In all probability, though, other Malay-dominated parties would emerge as competitor(s) to UMNO and PAS. Once granted privileges, within a short time groups consider them to be natural rights; the rent-seeking society (Mancur Olson 1982) resists all efforts to abolish rents. Special privileges for the Malays can hardly be defended on grounds of equity; they create political problems and inevitably raise the objection that in all probability they are counterproductive and achieve the opposite of the intended result.

This claim is based on empirical observation and theoretical consideration: Empirically, it was shown above that after decades of affirmative action the economic disparity between the Malays and other groups is practically unchanged. These efforts have had no obvious and lasting effect besides generating anger and frustration among the groups discriminated against.

When looking for reason(s) for this unsatisfactory result, one can do worse that to recall the most basic law of social science: people respond to incentives. If, thanks to skin colour, I gain admission to university despite modest grades, why bother to make a greater effort? If I am to get shares or a – even only nominal – director's post, in a business venture owned by Chinese capital, why try to do better than my Chinese competitor? If easy credit is available, why try to outperform the competition by reducing costs?

Paradoxically, if this reasoning is correct, affirmative action in favour of the Malays has the perverse effect of prolonging or even deepening the problems it is intended to combat – and, in consequence, provide further arguments in favour of indefinitely extending that policy. For unprivileged groups, the opposite is true: to successfully compete with Malays,

who are favoured by law and UMNO's vast patronage network, requires above-average effort; such people have the incentive to be better than Malays.

Thus, in all probability, despite some criticism in Malay circles, the New Vision Policy will be continued. Economic theory predicts increasingly negative consequences of this policy. This should be all the more worrying for Malaysia in an increasingly globalized economy, where it competes with countries where this element of rent-seeking plays a minor role[29].

To summarize: neither considerations of equity nor those of effectiveness speak in favour of affirmative action in Malaysia. Even the fate of the poorer segments of the society warrants abandoning it early. It is far from certain that the leadership is ready to accept the political risks of doing this – as it is it is hardly inclined to move even marginally in that direction. Even the meritocratic principle recently adopted for university admission operates in reality on the basis of quotas for the different races (taking into consideration a minimum standard), and still gives advantages to candidates from rural areas, most of whom are Malay.

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[29] The Global Competitiveness Report 2003 ranks Malaysia 28th among 60 nations-down 16 places from 2004!

II. The Political System: Consociational Management of Diversity?

A. The constitutional institutions of state[30]

Malaysia is a federal state composed of the Malay sultanates on the peninsula, former British territories (together usually called West or Peninsular Malaysia) and the states of Sabah and Sarawak on the island of Borneo, whose inclusion transformed Malaya into Malaysia.

The head of state is a king elected for five years by the nine Malay rulers from among their number. In theory, he is vested with far-reaching powers; in practice, his political role is mainly ceremonial; like the British monarch, he[31] has to act on the "advice" of the ministers. The cabinet is answerable to parliament and needs its confidence; the lower house (Dewan Rakyat) is elected by universal suffrage in a first-past-the-post system (see below). The federal system and the position of the traditional rulers seeks to ensure the loyalty of the Malays and the "special position of the Malays" according to the constitution. This special position – and the "legitimate interests"[32] of other communities- are safeguarded by the king.

Islam is "the official religion of the Federation", but the constitution also guarantees freedom of religion. The rulers' legitimacy derives in large part from their positions as religious leaders in the Muslim community; in the states without a traditional Malay ruler and in the Federal Territories special public authorities regulate matters of Islamic faith (here, officially, the king is head of Islam).

Unlike the British parliament the bicameral parliament is not "sovereign", but subject to the constitution. In principle, acts of parliament may be challenged in court, as happens from time to time, if less and less frequently. Legislation is dominated by initiatives of the government and the bureaucracy, as is probably the case in all modern constitutional states. Since independence, the government has been composed of ministers from all ethnic groups (who, in theory, "represent" them) and ethnically-based parties working together in a type of "grand coalition" (see below) known as the "Alliance" until 1969 and the "Barisan Nasional" since 1971. The cabinet is relatively large and collectively responsible to parliament. In practice, the prime minister (in 2004 Abdullah Badawi[33] succeeded the long-ruling Mahathir) is the dominant figure; he nominates (and removes) ministers, subject to the usual political

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[30] Unless otherwise indicated, the text is based on Wolff 1989, pp. 47ff.

[31] A woman may not be ruler.

[32] A meaningless prescription in the Malaysian context, where there is no agreement on what *are* "legitimate interests" of the Chinese, Indians, Christians and others.

[33] Malays do not have family names; hence, the correct form of address is "Prime Minister Abdullah"; as this practice is not known abroad, it has become customary to call the prime minister "Badawi".

constraints. A deputy prime minister (not mentioned in the constitution) is in effect the prime minister's designated successor. In addition to his powerful political position, the prime minister has the power to declare a state of emergency and then "(to) make any regulations whatsoever… which he considers desirable or expedient for securing public safety, the defence (sic) of Malaysia, the maintenance of the public order and of supplies and services essential to the life of the community"[34].

A judiciary, independent according to the constitution, is also in charge of constitutional affairs and matters concerning the state bureaucracy (see below).

B. Behind the veil: Authoritarianism in democratic forms

1. The power of the executive and its domination by Malay officials.

Three points merit particular attention:
- Malaysia as an "administrative state";
- the domination of the bureaucracy by Malayan civil servants; and
- the control of society by the executive.

a) Malaysia as an "administrative state"

By this, we mean two facts widely described in the literature:[35] the dominance of the executive over the other organs of state and the lack of real powers to hold the public bureaucracy accountable.

First, weak control over ministers (Lim Hong Hai 2002 b, pp. 183f.). Given the overwhelming strength of the ruling coalition in parliament (see below) and the corresponding weakness of the opposition, ministers can practically disregard accountability vis-à-vis the Dewan Rakyat.[36]

Ministers are powerful and secure; they may (and *do*) use public office for personal and political gain.

Second, the inevitable result is politicization of the bureaucracy (very different from the British tradition of a professional civil service) in respect of appointments and promotion

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[34] Art. 2 para. 1, Act 216 / 1979.
[35] See e.g. Lim Hong Hai 2002 b and the literature mentioned in the text; see also Wolff 1989, pp. 52ff.
[36] For instance, during field work in Kuala Lumpur, Rafidah, a Chinese minister involved in a scandal about import permits for luxury cars, refused for weeks to appear before parliament to explain her behaviour. Even the UMNO press (New Straits Times) was critical of this behaviour. Finally, the cabinet literally had to order her to go to parliament and answer MPs' questions.

and in the day-to-day decisions. The bureaucracy is highly centralized, avoids delegation and participation of interested and affected parties, aims at controlling social developments – and is confirmed in this attitude by a public which expects guidance and supervision from the state.

The erosion of professionalism, competence and rational-bureaucratic criteria inevitably leads to slackness, indulgence and outright corruption. On the other hand, the primacy of politics goes unchallenged – for the simple reason that the bureaucracy is part of the political decision-making structure. For reasons of space we cannot go into greater detail here.

b) The domination of the bureaucracy by Malayan civil servants

Already in the 1960's, the highest ranks of the public service (the Malaysian Civil Service) was practically monopolized by Malays (see tables in Nagata 1979, p. 165, and Puthucheary 1978, p. 59 f.). At the lower levels, the ethnic groups were much more evenly represented. This situation has dramatically changed in the meantime. Today, the public service is overwhelmingly staffed by Malays, and observers also speak of a marked reduction of its quality.

This domination has at least two consequences:
-   the preponderance of Bahasa in public administration and the decline in public officials' standard of English in recent decades;
-   religious radicalization, hence the use of public authority to foster the Islamic (or Islamistic) cause (see Chapter III for details); and
-   the bureaucracy is the main instrument for affirmative action in favour of the Malays, the very opposite of a politically neutral institution that treats every citizen in accordance with fair and generally accepted rules.

c) The control of society by the executive[37]

In Malaysia, executive power has a marked distrust of independent – i.e. opposition –social activities; the state uses all the available means at its disposal – and gives itself new ones – to ensure it is always in control of social developments.
The following points may serve to illustrate this statement.

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[37] see on that Yatim 1995

- The lack of free mass media: With the exception of one electronic newspaper published on the Internet (Malaysiakini), there is no independent press and no independent radio and television-stations in the country. The newspapers are either government-owned or in the hands of political parties that are part of the ruling coalition.

By way of example: the 160-year-old New Straits Times, once the flagship of the Malay press, belongs to an UMNO-dominated holding. The results are obvious: a decline in journalistic quality – at times to the level of a gutter press, e.g. front-page headlines such as "boy found hanging", "three die in car crash", etc. – and an absolutely uncritical attitude in political matters; but then one would not have expected Izvestia to criticize the Soviet government. The one exception, Malaysiakini, is said to survive because business interests fear that foreign trade would be harmed by government intervention in the world wide web.

- There is no official censorship. However, each publisher needs a license that must be renewed every year. During the famous 1987 Operasi Lalang (when 104 people were arrested under the Internal Security Act), "The Star" newspaper reported it extensively, which irritated Prime Minister Mahathir, and "The Star" was banned for a period of six months.[38] Such actions induce self-censorship.

This gross violation of the freedom of expression also affects NGOs: from time to time they test the limits of what is tolerated, only to discover that these limits are quite narrow.[39]

- Civil society is weak – at least if the NGOs are regarded as critical of the government. "Principles of accessibility to information and policy-making processes, and responsible exercise of public deliberation underlie the idea of the fundamental links between state and civil society. Malaysian democratic practices would fall short of such mainstream or universalist standards"(Hassan 2002, p. 200). "'Malaysian democracy', therefore, has restrictive laws … to monitor, depoliticize and if necessary eliminate critics of government, especially since their opposition is regarded as a disruption of established political and development agendas …" (idem, p. 201). Given the far-reaching lack of freedom of information and expression, the relative weakness of political NGOs is not surprising – appeals to the government and to society by declarations, press statements, publications are their main instruments to try to influence politics.

- Important (so-called 'sensitive') issues are banned from being publicly discussed even by elected representatives in parliament. They include, unfortunately, precisely those areas where

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[38] The Malay tabloid Watan was also banned; Hassan 2002, p. 200.

[39] Aliran, the oldest reform-oriented NGO, at one time had trouble getting its magazine printed: the printing houses simply had no free capacity. It turned out that public officials had reminded them that the renewal of their permit (license) was subject to a certain degree of good behaviour.

public debate is needed to correct questionable developments, such as matters relating to Islam as the official religion (a very imprecise wording, which is practically a catch-all to suppress any critical question about Islam), Malay as the official language (see above: what Bangsa Malaysia, means for the non-Malay speaking population if the national language, a core element of nationhood, cannot be publicly discussed) the position of the Malay rulers (again, what does this mean to a Chinese businessman?) and the 'special position' of the Malays, which clearly violates the principle of equality before the law and could potentially undermine national cohesion.

- Important laws run directly counter to human rights (e.g. habeas corpus): The Internal Security Act[40] (No.82 of 1960) permits practically indefinite[41] detention of a person who, in the eyes of the government, poses a threat to public safety. An arrest warrant issued by a judge is not required, nor must the person appear in court.

The Official Secrets Act (No.88 of 1972) once again confirms executive distrust of society. For example, when the present author tried to get statistics on income distribution within the relevant ethnic groups, the answer of a respondent who worked in a government institute which had the data was that the "the dissemination of these data is officially not encouraged"; a second attempt to get the figures was equally fruitless (apparently the data were old and highly skewed to demonstrate the poverty of the Malays).

To summarize: executive power – government and bureaucracy – is the decisive powers in state and society. It has created a vast system of supervision,[42] control and intimidation. Some of the most important political issues are even banned from public discussion by law. Democracy as a system of free discussion and of reversible decisions is hardly compatible with this situation.

2. A nice decorum: Parliament and the judiciary

  a) Parliament: Legislature or rubber stamp?
The three main functions of parliaments in modern states, especially in parliamentarian forms of government[43], are:
  - the election of a prime minister and approval of the government;
  - legislation; and

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[40] Detention without trial is also possible under the Emergency Ordinance and the Dangerous Drugs Act. – On ISA see Kua Kia Soong 2002.
[41] A Human Rights NGO told us that one prisoner was arrested sixteen years ago and several others more than 10 years ago.
[42] Of course, there is also a secret police (Special Branch).On the police, see Kua Kia Soong 2005
[43] In Malaysia, the head of executive, the prime minister, is not the head of state.

- controlling the government.

Let us briefly discuss these points in turn.

According to the constitution, the prime minister is not elected directly, but by parliament, and the government is answerable to parliament, not directly to the people.

Given the primacy of the Barisan Nasional, and of the UMNO within it, and given the unwritten law that the prime minister must be a Malay and is UMNO's president, election by parliament is a mere formality, not unlike Britain with its two-party-system in which the leader of the largest party quasi-automatically becomes prime minister. Parliament does not play a decisive role in this respect – only in the unlikely event of a political earthquake could the lower house make a choice.

Legislation is clearly dominated by the executive, as in so many modern states, on account of the growing complexity of problems. In addition, the parliamentary library is small and there is no scientific service to support parliamentarians.[44] Hence, when parliamentary political amateurs deal with specialists in the executive, the latter always prevail. What is worse, bills are not infrequently tabled so late that it is impossible for parliamentarians to read, let alone study, them. To reject a bill would be tantamount to a vote of no confidence to the government – and, hence, a political crisis. Bills are simply enacted, and parliament effectively rubber-stamps the government's initiatives.

Only in exceptional circumstances can a coalition between the opposition and BN backbenchers achieve minor changes in bills – but the backbenchers are then invariably called to order by their respective party presidents. As it is practically impossible for independent candidates to be elected,[45] the threat not being selected as an official candidate at the next election – in effect ending one's political career – is an effective deterrent against thought of abandoning the party line.

Finally, contrary to classical democratic theory, in modern parliamentarian systems the legislature does not control the executive. Instead the executive governs with the confidence of the majority in parliament, and an opposition of greater or lesser strength tries to control the government by parliamentary means. Hence, two criteria are important: the relative strengths of the government coalition and the opposition, and, second, the means at the disposal of the opposition.

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[44] In defence of polygamy, one (male) MP expressed his personal opinion "that there are more women than men". A scientific service could have corrected this opinion.

[45] Independent parliamentarians: 1974 0; 1978 2 (out of 154); 1982 8 (154); 1986 4 (177); 1990 4 (180); 1995 0; 1999 0; 2004 1 (out of 219), Election 2004 – Results, pp. 34, 49

The first point is important; because of the above-mentioned complexity of modern life,[46] specialization of MPs is vital. If the Chinese opposition party DAP has only 12 and the Islamic PAS only 6 seats (Parlimen Malaysia 2005), what degree of specialized opposition can they offer the government? The power relation is so overwhelmingly clear that ministers can openly flout (see supra).

To summarize: parliament is weak, a rubber stamp for legislation introduced by the executive and hardly, if ever, a countervailing power to the government. On the other hand, the legitimacy of the government rests on election by the people and parliaments approval of the government: in Malaysia it is still important that the correct procedures are observed,

Hence, we need to look at the democratic nature of elections.

b) Democratic Elections?[47] Or: Why the ruling National Front cannot be ousted by

elections – and why elections are nevertheless not entirely meaningless

The evaluation of the democratic character of a political system depends necessarily on the definition of democracy used. In the light of the multitude of countries claiming to be democratic, this is no easy task – especially as democracy is often equated with political institutions where (nearly) everything is fine and above criticism. As the most superficial look at democracies testifies, this is far from the truth.

Nevertheless, given the overwhelming standing of democracy since the demise of *the* grand adversary, communism, many systems claim to be democratic because the democratic legitimation of political power has become a necessity – even if Francis Fukuyama's optimism that the end of the twentieth century has witnessed the final triumph of democracy as the only legitimate form of political power has no obvious basis (Fukuyama 1992) – and Samuel Huntington's "clash of civilizations" may be an equally valid interpretation of the current global situation (Huntington 1997).

Be that as it may, Malaysia claims to be a democracy. This section will evaluate this claim in respect of the legislature, and not in terms of an abstract definition of democracy, but by analysing one necessary, if not sufficient, element of any form of government that claims to be democratic: free and fair elections. A system that fails to fulfil this condition cannot be called democratic.

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[46] Islamism can also (!) be interpreted as a longing for a reduction in this complexity by returning to an imagined ideal past with simple and clear cut norms and simple rules of what is right and wrong.
[47] On elections in Malaysia, see Yl Tan 2001, Ufen 2005 and Puthucheary and Othman 2005.

What are defining elements of democratic elections – and to what extent are these elements fulfilled in Malaysia?

There must be universal franchise: every adult citizen must be entitled to vote, a condition which holds in Malaysia[48].

Second, elections must be free, i.e. free of coercion and undue influence by authorities and of discrimination against individual voters or groups of voters because of their voting decision. Given the vast patronage system (where the UMNO, the biggest Malay party, acts as a super-patron distributing or withholding favours – scholarships building permits, access to low-cost housing, government contracts, import licenses for luxury cars, etc. – fulfilment of this condition is open to serious doubt[49]. In addition, the ruling coalition holds a monopoly of the printed press (there is no opposition paper in the country) and of radio and television (an exception is, for the time being, the Internet), and makes free use of the government machinery for canvassing. The Electoral Commission is not independent of the executive, either[50]. Whether if it is possible to cast a free vote is, hence, open to serious doubt given the nepotism, favouritism or outright intimidation via use of, among others, the Internal Security Act.

Third, votes must be equal. Each voter must have the same number of votes (with possible minor exceptions such as requirements of a minimum number of voters to be represented in parliament), and every vote must have approximately the same weight. In this respect, the Malaysian voting system is so unfair that it cannot be regarded as democratic.

Following the example of the former colonial power, Great Britain, Malaysia has a simple majority (first past the post) system: one member of parliament is elected in each constituency, and a simple, even relative, majority is sufficient to be elected.

This may, first, transform a minority of votes into a majority of seats in parliament, which is difficult for observers used to proportional representation to accept. As this system is in force in a number of countries generally accepted as democratic, we will not pursue this argument any further.

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[48] However, an unsigned article in the Aliran monthly ("Special Correspondent", 2000) quotes a recent report by the Malaysian Citizen's Election Watch (PEMANTAU) to the effect that a "large number of adult citizens eligible to vote were denied the right to vote"; and that the "administration of the postal vote was highly questionable" (idem, p.7). See also Loh 2002 and Anonymous, The Transformation, 2002, based on an article by Lim Hong Hai.

[49] There were open threats by the government to discriminate against constituencies voting for the opposition!

[50] According to the Election Commission Act (No. 31 / 1957), Art. 6, "every member shall have the like protection and privileges in case of any action or suit brought against him… as is by law given to a Magistrate…". No respondent took the real independence serious

What about the second point, approximately[51] equal weight for each vote? Here, the unfairness is extreme. By way of illustration, let us consider some figures of the Federal elections of 1990 (Elections in Malaysia, 1994) and of 2004 (Elections 2004 – Results). First, there is an extreme imbalance when it comes to the representation of the different states which make up the Federation. Sabah and Sarawak, the states in North Borneo, send many more deputies in parliament than their population merits.[52] Thus, in 1990, the average constituency in Sabah had 27,181 voters and in Sarawak 16,039, whereas in Kuala Lumpur the figure was 75,405 and in Selangor 65,904. Even if it is true that the overrepresentation of North Borneo goes back to the foundation of the Federation and is enshrined in the constitution (no doubt to raise the political weight of Bumiputra), it cannot be defended on democratic grounds.

Looking at individual constituencies, the difference is even greater: the smallest constituency (Hula Rajang in Sarawak) had only 14,004 voters and the biggest (Selayang in Selangor) no fewer than 100,488, a ratio of 1 to more than 1 to 7. So much for the equality of voters.

It just so happens that the cities and urban agglomerations have the largest concentrations of Chinese voters.

In 2004, things were worse: Sabahhad 768,943 registered voters and 25 MPs, i.e. a constituency average of 30,758 voters; Sarawak had 904,791 voters and 28 seats, a constituency average of 32,314. Kuala Lumpur (the Federal Territories excluding the Federal Territory of Putrajaya created in 2001) had an average of 69,293 voters per constituency.

The imbalance in favour of East Malaysia diminished between 1974 and 1999. Despite an increase in the share of voters from 5.6% in 1974 to 7.9 % in 1999, Sabah's share of seats rose from 10.4 % in 1974 to only 10.9% in 1999; for Sarawak, the share of voters was unchanged, but its share of seats declined from 15.6% to 14.5%; Lim Hong Hai 2002, p. 118). My calculation for 2004, however, produces 6.5% of the voters and 11.4% of the seats for Sabah and 7.7% of the voters and 12.8% of the seats for Sarawak (East Malaysia combined: 14.2% of the voters and 24.2% of the seats; Elections 2004 Results).

The national extremes this time were Kapar in Selangor with 104,185 registered voters and Putrajaya with 5,079 registered voters, a ratio of 1 to more than 20. Other things being equal, a candidate needs more than 20 times as many voters to get elected in Kapar than in

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[51] By way of illustration: in Germany, if the number of voters in a constituency differs more than 25% from the average, the boundaries of the constituency must be redrawn. In addition, pure proportional representation via a second vote ensures that imbalances at the level of constituencies are balanced out.

[52] It should be borne in mind that this is not the usual overrepresentation of smaller federal states in the upper chamber, as is often the case in federal systems, e.g. the German Bundesrat or the American Senate. In Malaysia, this overrepresentation is in the lower house, the Dewan Rakyat.

Putrajaya; as a voter in Kapar, your influence on the composition of the lower house is less than one twentieth of that of a voter in Putrajaya.

This gross violation of the principle of equality in elections would have no political consequences (apart from regional under- and overrepresentation of voters) if the society were largely homogeneous and if political preferences were equally distributed over the entire country. This condition does not hold in plural Malaysia – and this, of course, is the crux of the matter, and the reason why such gerrymandering occurs.

Let us take as our last example Putrajaya vs. Kapar. In Putrajaya, the new government administrative capital, voters are almost exclusively civil servants (Election 2004 – Results, p. 37), and 94.8 % happen to be Malays. 88.43% of all votes in that constituency (or 93.2 % of the Malay votes (assuming that Malays and non-Malays voted in equal proportions) were cast for the candidate of BN-UMNO. What more can be said?

In Kapar, 49.3% of the voters were Malay, 37.6% Chinese and 12.6% Indian (others 0.4%, idem p. 35). The Indian candidate was elected on the ticket of BN-Malaysian Indian Congress (MIC). How can this result be interpreted? First, surprisingly, the percentage of voters belonging to the different ethnic groups does not differ markedly from the national average. Second, by including a large number of (potentially oppositionist) Chinese in the constituency, these could be neutralized in electoral terms. Third, by making an Indian candidate of the Barisan National (the ruling coalition), the vote of the Indians was virtually assured (unlike the Malay and Chinese, the Indians do not have any political representation outside the MIC, which is part of the BN). Even assuming that all of the Chinese and some Malays voted for the opposition, BN supporters in the Malay and Indian voter segment virtually guaranteed victory for the BN candidate.[53]

Gerrymandering can be done in a number of ways, but always with the object of drawing the boundaries of constituencies in such a way as to virtually guarantee a majority for the ruling coalition.

First, as the example of Putrajaya shows, where there are small clusters of compact Malay settlements, give them a separate constituency. As long as UMNO (the leading Malay party) is able to win more than the almost exclusively Malay opposition party PAS (Islamist), victory is assured – and at the same time, overrepresentation of the Malay element in parliament.[54]

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[53] He obtained 58.1 % of the votes cast.

[54] Crouch 1996, p.120, reports that the percentage of constituencies with a Malay majority rose from 57% of the peninsular constituencies to 70% in 1986, compared with a share of the population of around 56.5%. My own calculations for the 2004 election show 77.7% of the constituencies in West Malaysia with a Malay and 22.3% with an absolute or relative Chinese majority. To this must be added the "Sabah Bumiputeras" and "Bumiputera

Second, relative majorities of Malays may be sufficient to ensure electoral victory if the opposition is split[55] or if a sufficient number of Indian or BN-supporting Chinese can be added to this relative majority.[56]

Third, compact clusters of the (potentially oppositionist) Chinese can either be given a separate constituency that contains more voters than the average constituency or be split up in such a way that the Malay majority – or strong generally BN, or better: UMNO minority – overweighs the Chinese opposition. As an example of the first type of gerrymandering, in the 2004 election the average size of a constituency in Sabah was 30,758 (calculation following Election 2004 – Results, pp. 48ff.). In four constituencies, Chinese had a relative or absolute majority. Three of these had more voters than the average for that state. Or, take the Federal Territories: an average of 53,693 registered voters per constituency (13 in all) is almost exactly the national average (excluding Putrajaya, it is 57,744, not inconsiderably more). The five constituencies with a Chinese majority have, on average, 65,064 registered voters, the eight Malay-dominated constituencies have only 46,597 (Elections 2004, Results, author's calculation using different tables).

An example for the second trick is constituency 115 (Batu), part of the Federal Territory of Kuala Lumpur with a traditional preponderance of Chinese, despite strong migration of Malays to the cities in recent decades. The borders are drawn in such a way that Malays form a tiny majority of 41.8 % opposed to the Chinese with 41.1 % (Indians 16.2%). Given the electoral preferences (see above), the victory of BN candidate (in this case, a Chinese) was virtually assured.

Together this gives the government party (or coalition) a huge in-built advantage in terms of seats compared to its share of the popular vote. In percentage points, this advantage varied between 16.7% in 1969 and 27.8% in 1986 (Lim Hong Hai 2002, p. 127). In 2004, the BN obtained 90.9 of the seats in the Dewan Rakyat (see Parlimen Malaysia, Dewan Rakyat,

Sarawak", who dominated 17 out of 25 constituencies (68%) and the Malays another 4–16%) and 22 of 28 (78.6%) of the constituencies, respectively.

[55] The only sizable opposition parties in parliament are the fundamentalist Parti Se Islam Malaysia (PAS) and the pro-business Chinese Democratic Action Party. For ideological reasons, these are most unlikely to form a united opposition to the ruling Barisan Nasional. Even if the Chinese majority voting overwhelmingly for DAP, plus a dissenting Malay minority, the BN would still win with, say, 60 % Chinese, 30% Malay and 10% Indian voters. If 70% of the Chinese vote for DAP, this would amount to 42% of the votes cast. If half of the Malays vote for the fundamentalist PAS, 15% would still vote for Barisan Nasional; if the Indians (for lack of a viable alternative) could be added, Barisan has 43% and win the seat against 42 % for the DAP and 15 % for PAS. Could PAS and DAP agree on a single candidate (as BN does regularly), it would easily have won the seat with 57% of the votes against 43% for BN.

[56] Even a relative Malay minority with the corresponding voting behaviour may be sufficient to ensure victory. Take 35 % Malays, 40% Chinese and 25% Indian voters: if only half of the Malays (17.5% of the total vote) and, for lack of an alternative, all of the Indians voters voted for the BN, this would add up to 42.5%, 40% would go to the Chinese opposition (in practice, DAP) and 17.5% to the Malay opposition (in practice, PAS). Hence, the BN candidate would be elected.

Senarai nama dan alamat, 20 Jun 2004). A detailed analysis of the percentage of votes cast for BN is, however, difficult, because: a) 17 seats went to BN uncontested and b) the election results in the statistics we used for this study were not available for six seats where the vote had to be recounted. This leaves us with 189 seats for BN elected by a turnout of 4,267,000,[57] or 22,577 voters per seat. The opposition, with 17 seats, had to mobilize 23,353 voters per seat, a slight, but, given the first-past-the-post-system, in many cases decisive disadvantage. In other words, in our (representative) sample, a percentage of 62.9% of actual voters was sufficient to win 91.7 % of the seats, whereas the (combined) opposition with 37.1% of the votes won only 8.3% of the seats.

In summary, the voting system is unfair in the extreme[58] – a fact that makes it impossible to call Malaysia a democracy.

Nevertheless, elections, despite distortions, are not entirely meaningless. Apart from determining the composition of a relatively insignificant parliament, Malaysian elections serve additional functions which make them an important element in the political process.

First, the legitimacy of the government depends on its election by parliament. In the very unlikely case of an electoral defeat (i.e., the Barisan Nasional loses its majority in parliament, short of a coup d'etat[59] no BN-government could be formed.[60]

Second, the Barisan presents the image of interracial accommodation at the level of the political elites and this image, if not the whole truth (see below), is not entirely wrong. The fact remains that the Chinese and Indian minorities are represented not only in parliament, but also in the government – in other words, the Malay majority does not officially claim a monopoly of political power, it projects an image of consociationalism. (It could be claimed that the Malays, politically, are divided between UMNO and PAS and that UMNO, therefore, needs non-Malay votes to win a parliamentary majority and form the government; see below). Losing elections would testify to the breakdown of the intercommunal arrangement and of the pretence of successful interracial cooperation.

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[57] Due to rounding, numbers are approximate.
[58] Similarly, Lim Hong Hai 2002, p. 141, citing approvingly Harold Crouch.
[59] Not entirely unthinkable in view of the events in 1969: racial riots originated in the triumphalist behaviour of the opposition which was able to agree on a common list; the Alliance, predecessor of the Barison Nasional, got only 40% of the non-Malay vote and lost the government in one state. This was far from a "victory" for the opposition, yet provoked riots that killed hundreds of people and led to the suspension of parliament and a two-year rule by a National Operations Council headed by a Malay, during which political forces were realigned to form the Barisan; for details see Wolff 1989, pp. 87ff. The events of 1969 are a national trauma, and there is a general determination to never let it happen again, as many interviewees testified (in 1987 and in 2005).
[60] Probably no government-at-all, because PAS and DAP, ideologically, are worlds apart.

Third, the electoral system is skewed heavily in favour of the Malays, who also are the majority of the electorate.[61] Hence, the Malay electorate is decisive for electoral success. This has two important consequences for UMNO[62] and for the MCA, its Chinese ally.

First, UMNO is the great patron of the Malay, freely distributing commercial opportunities, government jobs, low-cost housing, access to land, agricultural inputs, scholarships (Crouch 1996, p. 118) or import licenses for luxury cars. This vast patronage network (imitated to a much lesser extent by non-Malay BN parties; idem) is one of the main reasons for its continuing electoral success among the Malays.[63] And yet, UMNO is vulnerable to electoral "outbidding" by the opposition party PAS: as Malay and Muslim is widely considered to be identical,[64] supporting Malays widely regarded as tantamount to promoting the cause of Islam. UMNO is, thus, potentially vulnerable to the claim of not being "Muslim" enough, of compromising with non-Muslim (i.e. non-Malay) parties and of sacrificing Muslim fundamentals (as understood by the radicals) in the name of retaining political power via power-sharing.

The MCA is in a similar position: by cooperating with non-Chinese parties in the Barisan, the MCA is widely regarded as neglecting Chinese (especially business) interests; grievances about the special privileges for the Malays (see Chapter I) are directed against MCA. Chinese, on average, are much more inclined to vote for the opposition than the average Malay voter (Crouch 1996, p. 130).

This leads, fourth, to a twofold dynamic: on the one hand, there is some competition between UMNO and PAS as to which party is more Islamic than the other (see Chapter III). Second, the government has to take account of grass-roots sentiments in its policy, especially if the opposition vote increases because of grievances of the respective ethnic group. The islamization process can be interpreted in this way.

Another example where the government had to respond to Chinese aspirations is education policy (Crouch 1996, p. 131f.): "Non-Malay frustration over access to higher education (cf. by the quota system under the New Economic Policy) was one of the main issues of the 1978 election, which contributed to the non-Malay BN parties' loss of seats.

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[61] Probably one of the very few polities where this is the case.
[62] The 14 parties that formed the Barisan in 2005 fight elections as a single bloc with only one candidate in each constituency. Given the constituencies skewed in favour of the Malays, the Malay vote is also decisive for the success of the candidates of non-UMNO BN parties. For details, see Crouch 1996, p. 116ff. Since 2004 UMNO has held 110 seats in Parliament (out of 219); together with the "Bumiputera" parties in Sabah and Sarawak, the Bumiputera form a solid majority (Parlimen Malaysia, no pagination).
[63] "UMNO leaders made it clear that development funds would be at risk in constituencies that voted for the opposition"; Crouch 1996, p. 118.
[64] According to the constitution, a Malay *must* be a Muslim. On the other hand, not every Muslim is a Malay, of course.

Apparently feeling that the non-Malays had been pushed too far and, taking into account the electoral repercussions, the minister for education (an UMNO minister) reached an agreement with the MCA to increase the number of university places open to non-Malays… roughly reflecting the racial balance in the country…" (idem).

(Concessions were also made to the Chinese after a long-forgotten split in UMNO in the late 1980s dramatically improved the chances of the opposition, idem.)

To summarize: It is virtually impossible in Malaysia for the government to lose elections. The crucial test of a democratic system is possibility of a peaceful change of power, which clearly leads to the conclusion that Malaysia cannot be regarded as a democratic state. Fair elections are a defining element of democracy; no fair elections, no democracy.[65]

Nevertheless, elections are not entirely meaningless: they transmit to the government popular wishes and grievances, to which it has to respond. This, paradoxically, is all the more true if large segments of the electorate are alienated from the ruling coalition and vote for opposition parties.

It may be added in parenthesis that the more important elections in Malaysia are the triennial elections for UMNO's leadership (Crouch 1996, p. 133f.) – and those of the MCA, Gerakan (another Chinese party) and MIC. The presidency of UMNO virtually guarantees the premiership. The prime minister is almost never challenged for the party presidency, but fierce contests are common for the position of deputy president and for the three vice-presidents (idem). The deputy president is the designated successor of the president and thus can expect to become prime minister on the resignation of his predecessor.[66]

b) The Taming of the Judiciary

The independence of the judiciary is an indispensable element of a democratic state: courts, in their decisions, are subject only to the law;[67] as long as a judge acts within these limits and does not obviously violate the law, he or she should be secure in his or her position. The personal security of tenure acts as an effective impediment to political pressure. How

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[65] Interlocutors in Malaysia called the system a "pseudo-democracy" or a "limited democracy", that is to say, Malaysia is *not* a democracy.
[66] See the tale of Anwar Ibrahim, Dr. Mahathir's "crown prince" who was removed from the deputy presidency of the party and, hence, was not elected prime minister as originally intended.
[67] And, of course, its interpretation; in constitutional matters, political considerations come into play. Hence, the matter is not so simple. But political considerations are the task of the judges, who should make their decisions regardless of government intervention or pressure.

independent are Malaysia's courts, particularly – which is our concern here – in political matters?

Two critical points must be mentioned in this respect.

The government is obviously entitled to dismiss even the highest judges for purely political reasons (disagreement not only with their decisions as judges, but also with public political statements). The cause célèbre was the dismissal of the chief justice by Prime Minister Mahathir in 1988. The chief justice had voiced opinions in public with which Mahathir disagreed at the time.[68] According to several respondents in the legal profession, this was widely perceived as a blow to judicial independence and caused even high-ranking judges to become more cautious. "Since 1988, there is no more an independent judiciary" (one respondent, himself a prominent lawyer).

The second attack on the independence of the (secular) judiciary comes from the existence of Shariah courts at the level of the states, which are competent in matters concerning Islam for Malaysians "who profess Islam".[69] The threat to an independent judiciary is rooted in several characteristics of Islamic law and practice. First, more than other religions, Islam claims to and does regulate the life of its adherents (Walther 1992, p. 98). In day-to-day life, Islam is at least as much law as it is religious doctrine and practice. Hence, in principle, no sphere of life is not regulated by the Shariah – and it follows that Islam touches on and has a rule for everything. The logical consequence is the extension of the Shariah to all aspects of life.

Second, the secular courts react to this. Even though Islamic courts clearly violate human rights as enshrined in the constitution (e.g. equality before the law, or the freedom of religion; (see Chapter III), since the crisis of 1988, secular courts, including the Federal Court, find legal tricks to circumvent handing down clear decisions in keeping with their constitutional mandate.[70] The courts simply shy away from confronting Shariah Courts in the

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[68] In 1985, Mahathir declared Malaysia to be a secular state. The judge in question publicly favoured a greater role for the Shariah. Mahathir disagreed and fired the judge in 1988. The irony is that in 1993/4, Mahathir declared Malaysia to be an Islamic country (not state). For details, see Part III.

[69] Organization, procedure and material rules of the Shariah courts are subject to legislation of the individual states, e.g. for the Federal Territories, Syariah Criminal (Federal Territories) Act 1997 (Act 559); Administration of Islamic Law (Federal Territories) Act 1993 (Act 505); Syariah Courts (Criminal Jurisdiction) Act 1965 (Act 3559; Islamic Family Law (Federal Territories) Act 1984 (Act 303); Syariah Court Civil Procedure (Federal Territories) Act 1998 (Act 585); Syariah Criminal Procedure (Federal Territories) Act 1997 (Act 560); Syariah Court Evidence (Federal Territories) Act 1997 (Act 561).

[70] There are exceptions: in 1995, the High Court ruled that Shariah courts are competent for people "who profess Islam"- hence, not for those who declare that they no longer profess Islam. This ruling is no longer applied; if a person wants to leave Islam, the matter is regularly referred to the Shariah courts (see Chapter III).

name of the Constitution.[71] One respondent stated his clear impression that the courts simply waited for an appropriate hint "of their political masters" which, if true, would confirm the lack of independence of the courts.

Summing up, in several respects the judiciary is even less independent than it was two decades ago (see Wolff 1989, pp. 51). The government has become increasingly authoritarian since then. Whether Abdullah, the prime minister since 2004, has the will and the strength to return to more democratic forms of government remains to be seen; opinions vary widely.

C. Who governs? Is Malaysia a consociational democracy or a consociational political system?

To answer the question "to what extent can the Malaysian political system still be qualified as consociational?"[72], we need to discuss three points:

- What are defining elements of consociational systems?
- Was Malaysia ever a consociational system in the strict sense?
- Is Malaysia a consociational political system today?

1. Elements of consociational systems
Consociational political systems are recommended for states with a plural social structure and voting patterns that essentially follow these social cleavages.

A plural social structure is characterized by the coexistence of religiously or ethnically defined social groups without cross-cutting cleavages, e.g. common political parties, or frequent intermarriage, common language and schools, or common interest groups based on like professions.[73] If politics is organized along group cleavages a political problem[74] immediately arises: if the largest group has more than half of the population and, thus, voters, it claim, as the majority, political power. This violates a fundamental principle of democracy: that today's political opposition can form tomorrow's government.[75] In a word: a democratic election is fundamentally different from a census that counts the number of members of

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[71] In one case in 2005, a Muslim plaintiff appealed to the High Court claiming the right to freedom of religion. The Court accepted the case, but declared the question to be "academic". The plaintiff (Damaria Ali) was subsequently arrested – which can hardly be considered "academic".

[72] As to be found in the terms of reference of the Byblos "International Centre for Human Sciences".

[73] A plural society was defined for the first time by Furnivall 1939: (a society) "comprising two or more elements, yet without mingling in one political unit".

[74] "The hallmark of the plural society and the feature that distinguishes it from its pluralistic counterpart is the practice of politics almost exclusively along ethnic lines… in the plural society but *not* in the pluralistic society – the overwhelming preponderance of political conflicts is perceived in ethnic terms "; Rabushka / Shepsle 1972, p. 20.

[75] This has been stressed, among others, by authors such as Robert Dahl and Ulrich Scheuner.

different ethnic groups. If no group can claim a numerical majority, things may get worse: a coalition of minority groups may perpetually dominate all other groups (even the relative majorities) – a state of affairs hardly acceptable to the other groups, who will remain an eternal opposition excluded from the spoils of political power.

In this situation, a consociational system is recommended: the solution is to form a grand coalition that includes representatives of all relevant groups and let them all participate in the fruits of political power. This means:

- power-sharing by mutual accommodation;
- roughly proportional representation in the important decision-making bodies (very small groups may even be over-represented);
- a proportionate share of posts in the public bureaucracy;
- a veto for each group in matters it considers as essential for its survival (e.g., language or religion); and
- decentralization of decision-making, whether involving some form of federalism or through self-administration by the different groups of their own affairs (e.g. family law).

In short, decision-making by simple majority rule is replaced by a sense of compromise and mutual accommodation that allows each segment to participate in political decision-making and the fruits of political power, accompanied by a veto in matters of vital interest to a group and self-administration in matters in which the interference of other groups is regarded as intrusive.

2. Was Malaysia ever a consociational political system?[76]

Historically, interpretations of the Malaysian polity among independent observers vary widely.

At the one extreme, we find the classical interpretation of Malaysia as a consociational system, even as a consociational democracy (cf. Diana Mauzy 1983, in particular pp. 136ff., and, for the period before 1969, van Vorys 1975, pp. 13ff.): The political elites demonstrate a considerable will to compromise by forming a grand coalition (a coalition that is bigger than needed simply to form a majority government), i.e., all the important ethnic groups are represented in the cabinet. Compromise and package deals behind closed doors ensure that

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[76] The text draws heavily on Wolff 1989, pp. 114ff.; see also Jesudason 1996

groups look after their important interests. Political patronage ensures rough proportionality in the composition of parliament, government and other decision-making bodies.[77]

On the other hand, there was no doubt that UMNO had the decisive political influence, but subject to a considerable will to moderation and compromise, to which the New Economic Policy was a major exception. Mauzy's interpretation is paralleled by van Vorys (1975): Ethnic and religious homogenization ("nation-building" in the sense of early modernization theories) is impossible in Malaysia, hence, a viable political system must be based on cooperation between the leaders of the different communities. These deal with each other behind closed doors and *never* try to exert public pressure on other groups' representatives by appealing to the masses. In sum, so the telling title of this important study, we may speak of a "democracy without consensus".[78]

Without going into details, the classical text and a subsequent book by one of the founding fathers of the "consociational school" (Lijphart 1977, 1985) consider Malaysia an example of a consociational system, which contradicts in some respect his own definitions (see below).

One group of the critics saw the ethnic division in Malaysia as subordinate to the *real* problem of the country, namely tensions on the basis of class differences. "At the core of Malaysia's urban problems lies the unemployment, not the ethnic issue." (Goodman 1974, p. 956). Malaysians are victims of a sort of "false consciousness" in the Marxian sense.[79] The political elites use this false consciousness (whether deliberately or not) to counter the discontent of the population and to neutralize it and prevent the formation of a real class consciousness which could threaten the position of the elite. This ethnic engineering produces the intended result and of ethnic consciousness as the prevailing form of social identification.

We can ignore the question of false consciousness. Even Marxist critics now agree that the ethnic issue is the most important social identification of every Malaysian. If a certain interpretation of social reality is perceived as real by society, it becomes real in its consequences, no matter how correct or false the interpretation may be. In that sense, Malaysia is without doubt a plural society.

But was it (ever) a consociational system?
My conclusion in my 1989 book is as follows (Wolff 1989, p. 122):
"The political system testifies (and did more so in earlier times) of important elements of consociational systems. Political power is vested in the hands of elites of differing ethnic

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[77] This was already wrong for the public bureaucracy at the time of writing, see below.
[78] Lack of consensus, yes, but a democracy? See above.
[79] Nagata (1979, p. 178); nevertheless, her formulation is extremely gentle ("it may be speculated").

background, in short, a cartel of elites. Behind closed doors, there are complicated processes of negotiation and of coordination of interests, comparable to procedures in international diplomacy. This is easier 'in camera' than in the eyes of the political public… where compromises are much more difficult.

In principle, the political system of Malaysia is inimical to popular participation…"

In short: Malaysia had elements of consociationalism, but was certainly not a fully developed consociational system. Some of the defining elements of such systems were simply lacking (see the list above) – and, as will be shown, these elements have been reduced in the last two decades or so.

3. Is Malaysia a consociational political system today?

The narrower question – is Malaysia a consociational "democracy"? – has already been answered in the negative. As it is not a democracy, Malaysia cannot claim to be a consociational democracy. Nevertheless, consociationalism may exist in non-democratic systems. Hence, the question remains: can Malaysia's political system be regarded as "consociational"? To answer this, let us consider the defining elements of consociationalism.

– Power sharing: This is the crucial question concerning political decision-making. What influence do the different parties (as representatives of their respective communities) in the BN have to shape or amend such decisions?

First, the role of the Barisan Nasional as a consultative organization and decision-making body is extremely limited (see Gomez 1998, p. 254f.). In a coalition of equals there is normally some form of coalition committee where decisions in disputed matters are prepared and bargaining takes place to prepare formal decisions in cabinet or in parliament. The Barisan also has such a "convention". It met for the first time in its 22-year history in March 1995 to prepare for the general elections and to convey to the electorate the multiracial unity within the Barisan. Even the meetings of the Barisan's Supreme Council are held infrequently and, again, before federal or state elections (idem). Quite clearly, the Barisan is not the centre of decision-making in the country. This fact alone contradicts the idyllic picture of an African-type democracy that one interviewee wished us to accept where all interested parties sit down (behind closed doors) and "talk until they agree".

Major decisions are made by a select group of leaders, in which the UMNO party president (the prime minister) clearly plays a prominent role. Endorsement (and, occasionally modifications, see above) usually follows at cabinet level which is the main channel for

regular inter-ethnic consultations and expressions of different viewpoints (idem). The Barisan with its 90% majority in parliament may have an expressive function, but is not a centre of decision-making.[80]

Hence, a clear line of political decision making is probable: starting with the black box "UMNO" (where decisions and discussions are secretive, no observer knows for sure how decisions are reached), which, in practice, acts as patron for the Malays, smaller modifications may be reached at cabinet level; endorsement and execution is up to parliament and to the ministries, which are independent only in minor affairs (on the important role of the bureaucracy, see Part B.1).

In view of the general policy, which clearly favours the Malays, it may be doubted that the interests of the non-Malay groups are regularly taken into consideration. The leaders of the non-Malay BN parties have simply been coopted into the system (instead of sitting on the hard benches of the opposition) without being able to influence, let alone reverse, important decisions taken at UMNO level (but for yielding to voters' pressure, see above, Part II.B.2.b): "The UMNO is the government" (interviewee).

– Proportional representation in the important decision-making bodies: If the last quotation is true, only Malay politicians have access to the real power centre, UMNO's leadership. To this must be added one important characteristic of the Malaysian polity: after years of Malayization (as opposed to Malaysianization) the public bureaucracy is overwhelmingly (if not entirely, as some interviewees maintained) in Malay hands.

Starting with the top echelon of the Malaysian civil service (MCS) where already, by mandate of the constitution, four quarters of the positions are reserved for Malays, Malayization has also penetrated the lower ranks of the bureaucracy to the extent that in the public offices at the federal or Federal Territory level the visitor sees few non-Malay faces.[81]

Roughly proportional representation of the different groups in the public service is one vital element of consociational systems. Yet, Malays not only dominate public decision-making, they also nearly monopolize the posts in the bureaucracy – a clear contradiction to the stylized vision of consociational systems.

– Veto power in essential matters: As minutes of the deliberations in cabinet are not available, it is difficult to come to a clear conclusion on this point. However, we have mentioned the question of access of the different groups to higher education (and, it may be added, the

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[80] Opposition MPs interviewed stated that, occasionally, in cooperation with BN backbenchers, slight modifications of bills are possible – but no participation in real decision-making.
[81] This has the consequence that the level of English in the civil service has declined sharply. A study of the bureaucracy the author did while preparing his 1989 book would be very difficult, if not impossible, today without adequate knowledge of Malay or an interpreter.

question of the language of instruction). Both fields are delicate in plural societies. Compromise is difficult; normally these questions are considered vital for the survival and maintenance of a group's particular culture.[82] The policy of the Malaysian government described above never took a veto into consideration; a partial reversal of the policy was due to the Chinese protest at the polls, not to a MCA veto.

Short of threatening to leave the Barisan, we cannot see any way of meaningfully expressing a veto even in matters essential to the non-Malay population.
– Finally, federalism and decentralization of decision-making. As is well-known, Malaysia is, in fact, a federation. This, however, has not much to do with self-government of the different groups: the federal states are either long-standing sultanates or former colonies later annexed to the federation. The purpose was certainly not to give the different ethnic groups some form of self-administration. This, in any case, would have been difficult given the fact that they normally did not settle in compact clusters at the state level.[83] In recent decades the federal system has been much weakened by the growing centralization of decision-making, a phenomenon shared by so many federal systems.

Autonomy would also be possible on a personal basis, as in the early Holy Roman Empire – a Frank appearing in court in Swabia was subject to Frankish law – or in Lebanon in family matters even today.

Two examples can be cited for Malaysia:

One was (was!) the "Kapitan China"-system. Yap Ah Loy, a Chinese mining entrepreneur, was nominated in 1868 by the sultan of Selangor "Kapitan China", a sort of ethnic leader who had to regulate internal quarrels among the Chinese, to guarantee their good behaviour and to make sure that they paid their taxes.[84] This system, however, has long been abandoned.

Second, in family matters and in matters concerning the Islamic religion, a separate judiciary (Shariah courts) exists for those Malaysians "who profess Islam". This is discussed elsewhere in this study; suffice it to note that this so-called self-administration serves only one part of the population – the majority which dominates politics – and is not paralleled by similar institutions for other groups (no Buddhist, Hindu or Christian courts). In addition, these courts are certainly not an expression of self-administration by the Muslims, but claims

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[82] It is no accident that the civil war in Sri Lanka started after the government introduced a "Sinhala only" policy, which deeply antagonized Tamil speakers. Of course, the reasons for this conflict are complex and should not be attributed to a single factor.
[83] An exception was Singapore which had to leave the federation in 1965 because its large Chinese population threatened the ethnic balance. A lesser example would be Penang or Malacca on the one hand and the Eastern states of Peninsular Malaysia on the other.
[84] For details, see Heidhues 1974, pp. 45ff.

to act on the basis of God's law which, in principle, is not subject to human amendment (or, radicals maintain, interpretation), hence, exempt from the laws of the country. They are more an expression of Islam's claim to supremacy than an expression of self-determination of one group, which, logically, would imply like rights for the other groups.[85]

To summarize: Malaysia no doubt has some elements of a consociational system. The greatest ethnic group refrains from officially claiming all political power and includes representatives of other groups in the government. It portrays an image of racial harmony and of power-sharing with the minorities. A closer look, however, reveals that important defining elements of consociational systems are lacking. The image of consociationalism is certainly more façade than reality, power is highly centralized and non-Malays are largely excluded from political decisions. In short, Malaysia is more of an ethnocracy with minor elements of consociationalism than a true consociational system. The often-cited unwritten constitutional arrangement allotting political power to the Malays and economic power to the Chinese, is still valid, at least as far as the first part of the arrangement is concerned.

III. Minorities at risk? Interreligious and interethnic relations in the light of the threat of radical Islam.

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[85] readers will have noticed that, all of a sudden, the "ethnic" communalism has been replaced by a "religious" one. On the complicated interplay of ethnicity and religion elsewhere, see the Disgression.

A. Islam and other religions: The constitution and its interpretation[86]

According to Art. 3 of the Constitution, Islam "is the religion of the Federation", but the article goes on to say that "other religions may be practiced in peace and harmony in any part of the Federation". The traditional rulers (sultans) are head of the Muslim religion in their respective states; there is no head of the Muslim religion for the whole federation; the king – always one of the sultans – "continues to the head of the Muslim religion in his own state and it is provided that he shall be the head of the Muslim religion in Malacca, Penang, the Federal Territory and in Sabah and Sarawak." (Ahmed Ibrahim 1985, p. 214.)

Looking back at the history of the constitution and its pre-Merdeka preparation by the Reid Commission, it is evident that "this principle (e.g. that Islam is declared the religion of the Federation, J.H.W.) shall not imply that the State is not a secular State" (Report of the Federation of Malaya Constitutional Commission 1957, as reprinted in idem, p. 213). In fact, the Supreme Court, in a 1988 case, ruled that the effect of Art. 3 is primarily symbolic, the legislative power of Parliament is not restricted and the Shariah courts have limited jurisdiction only over persons professing the religion of Islam (Abdul Razak Baginda / Schier 2003, p. 10); apart from the head of state, no public office is confined to Muslim office holders (Ahmad Ibrahim 1985, p. 215) except certain offices in the states. In theory, the prime minister, any minister or high official of the federation can be a non-Muslim. "In fact, Art. 8 (2) of the constitution reads: 'Except as expressly authorized by this constitution there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority…'" Art. 12 goes on to state that "every religious group has the right to establish and maintain institutions for the education of children in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or the administration of any such law …"[87]

Freedom of religion is, in addition, expressly guaranteed in Art. 11; and even if propagation of any religion to Muslims is restricted in Art. 11 (4),[88] the law does not forbid voluntary conversion of a Muslim to another faith (Faruqi 2003 b, p. 62). So, legally,

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[86] We draw on Ahmad Ibrahim 1985, where further details may be found; see also Teoh 2003, p. 14f. and Anonymous 2003.

[87] However, the article continues „… it shall be lawful for the Federation or a State to establish institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary for the purpose"- a clear deviation from the principle of religious neutrality of the state. Here tax money paid by all citizens – and, given their respective wealth, more so by the non-Muslim Chinese and Indians – is being used to further the cause of just one religion.

[88] In itself a dangerous prescription as the propagation of a religion, in addition to its free exercise, can be considered as part of the freedom of religion.

Malaysia is a model case of a modern secular state: ceremonial mention of a state religion, but religious freedom for everybody, and no discrimination on the basis of religion alone. Paradoxically, this interpretation is also shared by the Muslim political opposition (Abdul Razak Baginda / Schier 2003, idem) which, exactly for this reason, seeks to bring about fundamental changes in the legal and social order. On the other hand, Mahathir, then president of UMNO, the more moderate party stressing Islamic principles, declared Malaysia to be a Muslim country in 2001, and Islamist movements have been on the rise for decades (see below). The gap between the constitutional mandate and social reality is certainly wider today than at the time of the country's independence. However, opinions differ on whether this is a continuous or a cyclical process.

B. Religions in Malaysia and their interrelation

1. Some data

a) Religions in Malaysia

The latest available data (Dept. of Statistics, Population Census of Malaysia, 2001, as reprinted in Hashim Hj Musa 2004, pp. 81f.) give the following breakdown of religions in Malaysia:

Religion	%
Muslims	60.4
Buddhists	19.2
Christians	9.15
Hindus	6.24
Confucians / Taos and Others	2.67
Other religious practitioners	0.8
Unknown and non-religious adherence	1.5

Source: see text

However, data vary considerably, as do the designation of the different religious groups. Thus, Lee and Ackerman (1997, p. 15) speak of 56 % Muslims, 32 % "Buddhist-Taoists", 8 % Hindus , 2 % Christians and 2 % Sikhs, Baha'is, animists atheists or religious anonymous; however, these data refer to Peninsular Malaysia only. A recent guide up-dated in 2002 enumerates 53 % Muslims, 17 % Buddhists and gives no figure for Hindus, Sikhs and

animists; for the Christians, an absolute number of one million is mentioned, which would amount to 5 % of the Malaysian population (Lutterjohann et al. 2002, pp. 74, 89ff.). In short: it seems that the data are not very reliable, probably due to the fact that the religious composition of the population (and, especially, the percentage of Muslims) is an eminently sensitive issue.

b) The Catholic minority

The official Catholic Directory (2005, passim) gives the following break-down for Catholics:

	Total Population	Catholic Population	%
Archdiocese of Kuala Lumpur	9,050,100	92,344	1.0
Diocese of Malaka-Jahor	3,375,000	38,504	1.1
Diocese of Penang	6,600,000	65,100	1.0
Archdiocese of Kuching	939,000	140,307	1.5
Diocese of Kaningan	529,935	98,362	1.9
Diocese of Kata Kinabalu	939,500	150,307	1.5
Diocese of Miri	n.a.	n.a.	
Diocese of Sibu	680,000	94,718	13.5

Source: see text

A sizable concentration of Catholics is found only in Eastern Sarawak (and, by inference, in central Sarawak in the diocese of Miri). In Peninsular Malaysia, Catholics form only a tiny minority of around 1% of the total population. If the census data that Christians account for somewhat more than 9% of all members of religious groups in Malaysia are correct, Catholics account for around one third of these. Furthermore, they are concentrated far from the national centre of political power.

No research has been undertaken to look into the financial status of the Catholic Church (probably a research taking several years).

The minority status of the church in no way impedes it having many different institutions at many levels, and it should also not detract from the fact that Catholics have a very rich community life.

2. Socio-economic status

In most countries of the world, religious or ethnic minorities are statistically distinct from the majority population as far as their socio-economic status is concerned: they are, on average, either poor or rich by the respective national standards.

There is no data on income and wealth vs. religious affiliation in Malaysia (except for Malays, who, by definition, are Muslims). Only very tentative considerations are possible:

In Peninsular Malaysia, the bulk of Christians are Eurasians, Chinese or Indians. It may be tentatively concluded that here Christians are on average wealthier than the national average, which is depressed by the large number of Malay Muslims who are relatively poor.

Sarawak, where Christians form a sizeable minority – if not a majority – of the population, has the highest incidence of poverty in the country (16.0% in 2002; Midterm Review, p. 61). In addition, the bulk of Christians are members of indigenous groups. Even if Christians here were richer than the rest of the population, they would still not be (or not much) richer than the national average. Of course, this is only a statistical exercise and says little about the living conditions in their respective social settings.

There is not separate data on differentials between the socio-economic status of Catholics and other Christians.

3. Interreligious dialogue:

In 1983, the non-Muslim religions have formed the Malaysian Consultative Council for Buddhism, Christianity, Hinduism and Sikhism; the Protestant Churches are united in the Council of Churches in Malaysia (part of the Oikumene Movement); finally, a semi-official Interfaith Commission was created in 2005 to enhance dialogue between the majority religion and other religions. This commission is effectively inoperative due to the boycott of Muslim representatives.

At the risk of oversimplifying, there is disagreement among Christians, especially between Catholics and Protestants, over active proselytizing by American evangelical churches. The main dividing line, however, is between all non-Muslim religions and Islam over an Islamic movement that the former perceive as a growing threat to religious freedom in the country. The fact that Islamic representatives, by and large, refuse to enter into interreligious dialogue does nothing to reduce these fears.

C. Islam, Islamists, democracy, human rights and religious freedom in Malaysia

1. The growth of Islamic fundamentalism.

There is no doubt that the Malaysia is experiencing an Islamic resurgence (in Malay "dakwah")[89]. As in many countries, this causes certain problems for the state and its citizens, Muslims and non-Muslims alike.

The motivations for the dakwah movement are extremely varied and cannot be reduced to one set of factors. Shamsul enumerates at least six major objectives, "not in any order of importance":

> " (1) to overcome the pressure of or construct a reply to modernization, (2) to express anti-imperialist or anti-hegemonial sentiments; (3) to promote spiritual renewal from within a given religion; such as the move to 're-Islamize knowledge'; (4) to counter the influences of societal rationalization; (5) to revolve how to live in a world of radical doubt through the reformulation of traditional symbols and systems of meaning; and (6) to reinvent and reconstruct tradition, thus allowing a redefinition or reassertion of ethno-religious identities in a plural society" (Shamsul idem).

However, these more or less noble intentions should in no way detract from the fact that Islamic revivalism is also –and perhaps predominantly – a weapon in the struggle for political power. This is most evident in the Malaysian context where the only sizable Malay opposition party, PAS, openly denies the existence of an Islamic state in Malaysia and competes with the other party, stressing, time and again, Islamic values, UMNO, for political power in order to be able to introduce its vision of an Islamic state. There can be little doubt that the efforts of these two parties to openly challenge each other's Islamic credentials have greatly contributed to the gradual Islamization of the Malaysian state. "The state's current Islamization projects have been undertaken under … the constraints imposed by the government's need to legitimate itself as Islamic against to claim of … the Islamic Party PAS, the Muslim youth movement ABIM and the Darul Argam movement…" (Othman 1994, p. 134).

We can distinguish at least four phases in the development of the dakwah movement (Shamsul 1997, passim):

-    Phase 1: The Reawakening Period (1969–1974)

Starting with the 1969 clash between Chinese and Malays in Kuala Lumpur, Islamic revivalism emerged first as a student movement, which led to the creation of the Malaysian

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[89] Terms used are "revivalism" ("the attempt to restructure the past is a form relevant to contemporary social interests"; Shamsul 1997, p. 211), "resurgence", "rediscovery", "rebirth", "reassertion", "renewal" and "reformulation", idem.

Muslim youth Movement, ABIM. "Thus, it could be said that in its first phase the dakwah movement moved from a limited concern with Muslim consciousness raising to a broader concern with controlling national politics through student activism" (idem, p. 214).

- Phase 2: The Forward Movement Period (1975–1979)

Two developments in this phase merit attention: first the consolidation of the movement and, second, the corruption of top party leaders, which helped to make ABIM a credible political opposition (idem, p. 215). Still largely a student movement, Islamism grew organizationally, and it radicalized. In addition, internal strife was prominent.

- Phase 3: The Mainstreaming Period (1979–1990)

In this phase, the movement entered national politics. ABIM's leader Anwar Ibrahim was given important portfolios in the government, and, even before that, "the government introduced a series of policies designed to demonstrate its commitment to developing Islamic institutions among the Malays, spending millions of dollars on these projects…" (idem, p. 217). The movement spread from town to the countryside, and it was able to a certain degree to implement the doctrinal precepts of fundamentalist Islamic ideology. This inevitably was felt also by non-Muslims and led to a marked deterioration in relations between Malays and non-Malays. Even coexistence in daily life was affected (e.g. by Muslims not eating food cooked by non-Muslims,[90] idem pp. 217ff.).

There has been a lot of discussion about Prime Minister Mahathir's reasons for bringing in the "Anwar-Ibrahim" factor. Was it personal conviction (Mahathir being an Islamist himself)? Was it political manoeuvring in response to the growth of Islamism and, by coopting one of the prominent leaders, an attempt to direct and tame the movement – and at the same time neutralize it as a potentially dangerous political opposition?

A reading of a recent collection of Mahathir's speeches (Mahathir 2000/2003), which contains no fewer than 28 contributions on Islam on different topics, makes it difficult to regard his actions purely as tactics to weaken and silence an Islamic opposition. Even if these speeches were written by ghost writers, the prime minister used the manuscripts in his official capacity, and the copyright is in the hands of the Prime Minister's Office.[91]

- Phase 4: Dakwah and industrialized Malaysia (1991 onwards)

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[90] This was affirmed time and again by many of our respondents and compared to the good old times when invitations by and extended to members of different groups were said to be frequent.

[91] According to Karamulnizam 2003, p. 209ff., there were two phases of Mahathir's policy in that respect: first, he coopted radical Islamic leaders "… to accelerate his Islamization plan and also as a way to negate PAS's influence. However, in the later period (cf. from 1996 onwards) he was prepared to meet Islamic radicals head on". For details on Islamization in Malaysia, cf. Syed Mahmd Hussein 2002; also Lee and Ackerman 1997, pp. 15ff.

In this phase, the government increasingly employed the state machinery to enhance the movement and to keep radical movements at bay, by controlling and dismantling them, no matter how large their organization (Shamsul 1997, pp.219ff.). Special emphasis, at least rhetorically, was put on the spiritual and moral foundations of a fully industrialized Malaysia in the year 2020, which, according to Mahathir in 1991, will be reached by a different route from the one taken by the industrialized West.[92]

"The dakwah movement is here to stay in Malaysia. It has now moved from a peripheral position … to a central position in the social life of all Malaysians" (Shamsul 1997, p.222).

2.   Islamism and human rights[93]

> "Islamic fundamentalism is a powerful expression of modernity."
> Arakaki 2004, p. 193

This somewhat surprising assertion is based on the pretended uni-vocality of religious fundamentalism which "parallels one of the fundamental axioms of the modern nation-state, i.e. the quest for a uniform political culture. This accounts for why Islamic fundamentalists … seek to seize control of the state in order to impose their own metanarrative." (idem). And this is exactly where the problem lies, especially (but not only) in a plural society: The Islamists' "metanarrative" is simply not acceptable to non-Muslims and to large parts even of the Muslim population; together they probably form the vast majority of the Malaysian population.[94]

Let us first look at violations of internationally defined and accepted human rights standards.[95]

a.   Freedom of Religion

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[92] Again, the dream of a third way – we are still waiting for this way to emerge.
[93] Malaysia has not ratified the most important conventions on human rights (1966), but only CEDAW (against discrimination and abuse of women) and the convention on the rights of children. It also lacks a constitutional prescription that, in case of collision between national law and international obligations of the country, the latter prevail. However, Malaysia is member of the United Nations, whose General Assembly adopted, in 1948, the Universal Declaration on Human Rights. Moreover, the observance of human rights is increasingly viewed as an international obligation of any state, so that, in judging the human rights standards of a country, the question of whether it has adopted the corresponding conventions is of minor importance.
[94] In islamization in Malaysia, see also Derichs 2000.
[95] On NGOs and human rights in Malaysia, see Derichs 1999.

As internationally understood, freedom of religion, a basic human right, embraces the following rights:

- to adhere peacefully to the religion of one's choice,

- to leave any religion, for whatever reason, and

- to confess no religion at all.

At least the first two rights are systematically violated in Malaysia, and these violations are perceived as a constant (and growing) threat by many Malaysians, above all non-Muslims, but also by a good many Muslims.

This first violation is demonstrated by the following:

A Malay is, by constitutional prescription, a Muslim. Given the extended (if questionable) privileges of Malays, the loss involved in conversion effectively amounts to denying the majority of population the freedom to convert to another religion.

Second, a Muslim, legally, cannot simply declare that he ceases to be a Muslim. As the religion of a person is recorded in his identity papers, he has to request the removal of this information. The Malay (and, therefore, Muslim) dominated bureaucracy regularly refuses to do so without the consent of the Shariah courts. The secular courts normally refuse to uphold the principle of religious freedom, as prescribed by the constitution.[96] The Shariah courts rarely give their consent; as our respondents pointed out: they either refuse the application or refuse to decide.

Third, a non-Muslim who wants to marry a Muslim is forced to convert to Islam before the marriage is registered as such. This is not only contrary to classical Islamic law – a Muslim can marry women of any religion, though admittedly not vice versa – it also violates religious freedom and the human right of an adult person to marry whom he or she chooses. In addition, if the marriage is dissolved, the person who converted to Islam in order to marry cannot revert to his (or her) former religion (see above).

Fourth, the state regularly prosecutes religious movements that are considered as deviant from (officially defined) Islam. A movement that has attracted a lot of attention in 2005 is "Sky Kingdom", a sect founded by Ariffin bin Mohammed (who was in the hiding at the time of writing) and declared illegal in Kelantan, Selangor, Malacca and Terengganu.

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[96] "Muslims who want to remove the word 'Islam' from their identify cards must get approval from the religious authorities, the Court of Appeal ruled today. The appellate court said the National Registration Department did not have the power to decide on that matter because renunciation was a matter of Islamic law"; V. Anbalagan, New Straits Times, 30 September 2005. This problem sometimes borders to the tragic-comic: a Hindu girl was officially registered at birth with the wrong (Malay) name by a neighbour, and as Malays are Muslims by definition, as an adult she had all sorts of problems having the error corrected; New Straits Times, 24 September 2005.

Similarly, the Ahmadiya has been officially declared as deviant, and the Shia version of Islam is viewed with great suspicion.

Fifth, state authorities regularly interfere in the religious practice of believers, in particular Muslims, but occasionally non-Muslims, too.[97]

For Muslims, "moral policing" is on the rise. In 2005, a night club was raided by the police´(separating, it is true, Muslims and non-Muslims, but also molesting the latter): no state law was violated by the non-Muslims and a public outcry ensued,[98] which in no way hinders official religious leaders and official representatives of the PAS from openly defending moral policing and asking for it to be extended,[99] e.g. to state-supervised relations between the two sexes. So called "Islamic" dress for women, i.e. a scarf, seems to be administratively enforced,[100] and signs at a liquor department in a department store and at the entrance to the breakfast room in hotels during Ramadan note that Muslims are *legally* prohibited from buying alcohol, or breakfasting after sunrise.

Occasionally the state also impinges on non-Muslims' freedom of religion. The obligation of a non-Muslim to convert to Islam before marrying a Muslim has already been mentioned. Interlocutors mentioned two other cases of harassment by the bureaucracy:

- the import and sale of bibles is limited: e.g., 100,000 Malay bibles imported from Indonesia were confiscated by the customs authorities. The official justification was that they contained 16 Arabic words "reserved for Muslims"; this was not only a violation of the "right to peaceful exercise of religion", but ridiculous as these words (Allah, Razul …) are older than Islam and still used to this day by Arab Christians (who, by the way, used them long before the Muslim armies conquered the Christian Orient). Furthermore, bibles may be sold only in Christian bookshops (bibles sold in the street in Malacca were confiscated).
- In Sha Alam, a building permit for a Catholic church was denied for decades; possibly the action of an over-zealous authority, it provoked much concern among the Catholic clergy; see below.

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[97] One respondent spoke of "legalizing morality and moralizing legality".
[98] We were told that children of high-ranking people were among the visitors.
[99] Siti Mariah Mahmud, Central Committee Member, Information Chief, Dewan Muslimat (PAS), in a public speech at a conference, 4 October , Kuala Lumpur. Cf. Faruqi n.d.
[100] One respondent spoke of a "hint" of a licence issuing authority that female Muslim employees had to wear scarves if the owner of the firm wanted his license renewed. Compared to the 1980s, the percentage of Muslim women wearing a scarf has risen dramatically; only occasionally does one encounter a Malay woman in the street not wearing a scarf. This was, once, a symbol of a devout Muslim; today, it is an obligation enforced by society that says nothing about the personal belief of the woman in question.

b) Other human rights[101]

First, the fundamental norm of equality before the law is systematically denied to women[102]. Polygamy is permitted by Shariah law (subject to certain qualifications), and women are systematically denied equal rights in Shariah law and jurisprudence.

Second, the age-old Muslim distinction between believers and infidels is re-emerging in states where the radical PAS forms the government. As is well known, members of the religions of the Book – Christians and Jews – in Muslim states had, by and large, the right to exercise their religion, but were generally treated as second-class subjects: although exempt from conscription, because they could not be trusted, they were subject to special taxes. Terengganu recently tried to introduce a special tax on non-Muslims.[103] It is not surprising that there are growing fears among non-Muslims of becoming second-class citizens.

However, in all fairness it must be added that such phenomena are still confined to radical minorities. They, however, are most vocal and increasing.

Third, the modern democratic principle that the people are sovereign and free to make (and revoke) laws is violated in principle by the Islamists' claim that the Shariah is supreme and immutable law; they claim it comes directly from God and, hence, cannot be changed by humans: a direct attack on the very foundation of democracy.

Politically speaking, the question is, of course, who has the right to interpret the will of God as enshrined in the Shariah (a source of considerable power).

How the Shariah has been interpreted by radicals is demonstrated by the Kelantan Syariah Criminal II Code Bill (1993);[104] – again not in a force because it violates federal law. The following list of Hudud of offences and punishments illustrates the goals of the radicals:

- theft: depending on the number of previous convictions, amputation of the right hand, part of the left foot, imprisonment;
- robbery: depending on severity, death followed by crucifixion; death only; amputation of right hand and left foot, imprisonment;
- unlawful carnal intercourse;
- accusation of unlawful carnal intercourse which cannot be proved by four witnesses;
- drinking liquor or intoxicating drinks;

[101] The fascinating topic of human rights in Malaysia goes well beyond our scope; here we are concerned only with the violation of human rights by Islamists.
[102] On that SUHAKAM 2004
[103] This had no practical affect as it violated federal law – "if any state law is inconsistent with Federal law, the Federal law shall prevail"; Art. 75 Constitution of Malaysia.
[104] Ismail 1995, pp. 13ff.

-   apostasy: the defendant has three days to repent; refusal is punishable by execution and forfeiture of property.

Although this bill applies only to Muslims (Mohammad Hashim Kanali 1995, p.18), worrying questions remain for non-Muslims (idem). Apart from this, there is also the question of Muslims human rights. "The Bill is also a product of undiluted imitation… failing to acknowledge the contemporary realities of the society" (idem, p. 123). What is worse: the radical Islamists have no concrete vision of how to govern a modern state, as became evident in one interview after the other. Apart from slogans such as "justice" – meaningless if not defined – their ideas concentrate on prescriptions: telling people how to behave, especially what *not* to do.

Other purely symbolic acts also heighten non-Muslim fears. E.g., in 2005, Kota Baru, capital of PAS-ruled Kelantan, was declared an "Islamic city" by the sultan (New Straits Times, 2 and 4 October 2005). Outwardly, this should be expressed in modern buildings "incorporating Islamic designs";[105] in addition, "knowledge, loyalty, cleanliness, prosperity and welfare" are stressed as Islamic tenets. These may be Islamic tenets, but they are not foreign to other religions – "The declaration would not result in legislation that could curtail their daily activities" (New Straits Times, 2 October 2005). That the declaration of a city as "Islamic", however devoid of substance, could be taken as an insult by its non-Muslim residents evidently does not enter the mind of the Islamist radicals – or, worse, may be intended as such.

C. Counterstrategies – the example of the Catholic minority

Christian churches in Malaysia have only limited options to safeguard their human and constitutional right to the free exercise of religion – and these have had only limited success. This does not detract from the fact that, in individual cases, they are quite successful.

a) Interreligious dialogue[106]

In theory, this is a very good instrument to foster mutual understanding: religions, despite their diversity, have certain characteristics in common (e.g. the "Golden Rule"), and they also have the common interest of finding answers to the challenge of modernization. Members of

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[105] Given the long history and the cultural diversity of Islamic peoples, there is no single "Islamic" design.
[106] The German political Konrad-Adenauer Foundation is very active in this field.

minority religions also hope that representatives of the majority religion will understand and respect their position and try to alleviate their fears.

Some information on bodies to foster this dialogue has been given above. It was also noted that, at the moment of writing, there is no official dialogue between representatives of Islam and other religions.

According to interviewees, the fundamental reason seems to be that Muslim representatives consider Malaysia an Islamic state in which Islam has a privileged position. It follows that they do not see any necessity to communicate with other religions on an equal footing: as their interests are safeguarded by the state, there is no need to consult other religious leaders.

While attending a conference on moral policing on 4 October 2005 this author gained the following insights. Islamists simply do not seem to understand – or are disinterested – that other religions view their objective of establishing an Islamic state in Malaysia as dangerous. They seem to have in mind only divine law and some idealized vision that a benign and just Islamic state will also guarantee the rights of minorities. They do not understand how existing Islamic states (Iran, Sudan, Pakistan and some federal states in Northern Nigeria) have coloured non-Muslims' perceptions of an Islamic state. The same can be said of states that are not fully Islamic but where Islamist movements threaten the position of other religions, e.g. Egypt. Thus, Islamists are not very interested in interreligious dialogue – and therefore, it does not take place.

It is futile to hope to convince radical Islamists to respect the legitimate (and *equal*) rights of other religions.

b) Appeal to the political leadership

We noted that some problems of the free exercise of religion were created by over-zealous bureaucrats. The most prominent cases involve the building of a church in Sha Alam[107] and the illegal confiscation of bibles imported from Indonesia.

In these circumstances, Church leaders occasionally appeal to the political leadership. For one, they are considered less radical than the average bureaucrat;[108] second, they are more powerful and can order an end to such harassment in particular cases, and, third, they take into

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[107] "From 1977 when the church first applied to the state authority for a suitable land…. until the present site was approved in 2004, the state authority had offered, approved and revoked four different building sites"; Fernandez and Selvarajan, solicitors for the Church of the Divine Mercy, letter in the Sun Weekend, 17–18 September 2005.

[108] As noted, opinions on this point differ with respect to former prime minister Mahathir.

consideration political aspects, e.g. to avoid complete alienation of Catholics whose representatives (the bishops) are legally incorporated[109] and, thus, officially recognized by the state.

We were told that appealing to the political leadership, although used infrequently, has been successful in particular cases.

c) Legal action

As discussed above, the free exercise of any religion in any part of the country is protected by the constitution. Violation of this principle should be corrected by the courts.

On the other hand, we noted the frequent complaints of lawyers fighting on that front that the courts are less and less inclined to defend religious freedom against radical Islam. Cases involving the position of Islam are referred to Shariah courts, and the highest secular courts evidently avoid any serious confrontation with these courts.[110] "We nearly have exhausted our legal means" (a respondent, himself a lawyer).

d) Christian schools

Schools are of paramount importance in maintaining the distinct identity of an ethnic or religious community. Chinese vernacular schools and universities contribute to preserving (and unifying) the Chinese culture in Malaysia. It was once hoped that Christian schools would do the same for the preservation and propagation of the Christian faith.[111]

In fact, a vast system of Christian so-called mission schools exists. The first were established more than 150 years ago; today they are overseen by the Christian Mission School Authorities representing Catholic, Methodist, Anglican, Christian Brethren, Presbyterian and Basel Churches in Malaysia as well as the Protestant Church of Sabah.[112] First, some statistical data:

Mission Schools in Malaysia

Type of school	Peninsular Malaysia	Sabah and Sarawak	Total

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[109] Roman Catholic Bishops (Incorporation) Act 1957, Act 492.
[110] One respondent, on the other hand, spoke of his impression that the courts wait only for a sign of approval "of their political masters" to do just that. More pessimistic voices spoke of "a hidden agenda" of Islamists, or of a tiger unleashed by politicians who now are unable to control the consequences.
[111] Of Art. 12 of the Constitution, as quoted in paragraph A above.
[112] Confidential unpublished memorandum, 2004.

Primary schools	145	194	339
Secondary schools	84	41	125
Total	229	235	464

Source: Memorandum, idem

The schools are open to all, irrespective of socio-economic status, ethnic origin or religious persuasion.

However, the traditional name "mission" schools is totally misleading: the schools are run by the government which appoints teachers, enrols students, determines the curriculum and provides the operating funds (Memorandum, idem; interviews). Their curriculum does not even include religious instruction (apart from Islam).[113] The government is interested in the sites of the schools (often in outstanding locations of the cities) which legally still belong to the mission societies, but it is certainly not interested in keeping the distinct Christian character of these schools. It is difficult to see how these schools can contribute to preserving the Christian faith and, through religious instruction, counter the rise of Islamism. As legally they belong to mission orders (in the case of the Catholic Church), it is almost impossible for the Church hierarchy to dispose of them even by sanctioning their sale to the government.

In short: there are only a few realistic options for defending the Christian faith against the resurgence of radical Islam. Even these are based on a minimum of understanding and tolerance on the part of the state authorities and the religious leaders of the majority religion, Islam.

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[113] Christian instruction is given in Sunday schools.

Conclusion: Why is Malaysia not Disintegrating[114] – or Is It?

Many multiethnic states are torn by internal strife, up to the point of disintegration. Malaysia has avoided this development. What are the factors accounting for this success? Are they likely to exist in the future?

According to the Malaysian political scientist Shamsul (2001 b, pp. 16ff.), three factors account for Malaysia's stability:

- security in the form of draconian regulations such as the Internal Security Act and the system of identity cards;
- ethnic bargaining "conducted mainly through a modern electoral process using an umbrella-like coalition model" (idem, p. 102) and,
- development planning through a series of five-year plans.

"However, … the society has managed to resist total determination because it has several spheres that enjoy a measure of autonomy … This has been amply demonstrated during the rise of the 'new' politics …" (idem, p.17) [115].

Let us look at these points in greater detail.

Draconian security measures are a fact of life in Malaysia, and there can be little doubt that they contributed to the stabilization of a country torn by internal strife at the time of independence. They did not prevent the race riots of 1969, but certainly contributed to their rapid suppression. So, superficially, law and order is maintained and the state is completely in control – no sign of a failing state here.

On the other hand, it is equally evident that human rights violations, in the name of security are frequent, and that these violations are increasingly criticized by human rights groups, Malaysian and foreign alike. Put negatively, security is often another word for repression.

Draconian security measures were also a feature of failed states such as the Soviet Union or the German Democratic Republic. It was even inferred that the state's effort to control everything had the perverse effect that, in the end, it could not control anything. Put differently: "stability" brought about by repression and coercion is very different from stability based on citizens' approval of the state, their form of government and the basic values shared by them all. This form of stability can, in the long run, not be replaced by "security" in

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[114] Title of Shamsul 2001, b.

[115] Shamsul highlights the political reform movement of the late 1990s as proof of the elasticity of the political system. As is well known, the fall of Anwar Ibrahim and the 2004 elections have greatly weakened the reform movement; Mahathir, the prototype of the old-fashioned politician, remained firmly in control. In 2005, Anwar was said to be considering a political comeback by forming a united opposition front. We are sceptical about his chances of success.

the sense of coercion. We have amply demonstrated that the Malaysians' basic agreement is weak and certainly not based on shared cultural, religious or even political values.

In this sense, Malaysia's future stability will depend much more on the development of mutual trust, shared values and, most generally, the acceptance of cultural and religious diversity than on security. Switzerland could serve as an example.

Ethnic bargaining was evidently a key factor in Malaysia's success story. In this respect, the following must be noted:

- The electoral process may be modern, but it is certainly not democratic; hence, we have argued that Malaysia is not a democracy. The rules are rigged to keep the establishment in power.

- We also raised doubts about the validity of "ethnic bargaining". However, even today, large segments of the potentially oppositionist Chinese see this differently and consider the Chinese participation in the Barisan as at least a partial guarantee against complete political marginalization. As long as the Chinese – and Indian – voters do not join the opposition in overwhelming numbers, stability should be maintained. Whether this will be the case given the mounting frustration over Malay dominance and privileges is an open question.

Finally, economic success (I assume that this is what Shamsul had in mind when speaking of development planning): many observers have regarded this success as the foundation of political stability – and argued, vice versa, that the latter is threatened if the economy stops growing.

The highly interventionist and rent-seeking character of the Malaysian economy is evident to every observer. It is certainly a challenge to explain *why* Malaysia has been economically successful *despite* this type of policy; economic theory predicts the opposite. If the economists are not entirely wrong, interventionism will eventually undermine Malaysia's economic success. The crucial question is whether the leadership has the insight and the political strength to change this economic policy in the face of resistance from vested interests. If it fails to do so, the consequence is likely to be relative economic decline and crisis. If our respondents are right, a political crisis would necessarily follow.

To summarize: it is not guaranteed that factors which contributed to Malaysia's political stability and economic success in recent decades will hold in the future – they may even contribute to undermining that stability. In any case, Malaysia will face serious challenges in the not too distant future.

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